

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

**Sec. 1. 39-A MRSA §324, sub-§2,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**2. Failure to pay within time limits.** An employer or insurance carrier who fails to pay compensation, as provided in this section, is penalized as follows.

A. Except as otherwise provided by section 205, if an employer or insurance carrier fails to pay compensation as provided in this section, the board ~~shall~~may assess against the employer or insurance carrier a ~~forfeiture~~fine of up to \$200 for each day of noncompliance. If the board finds that the employer or insurance carrier was prevented from complying with this section because of circumstances beyond its control, ~~no forfeiture~~a fine may not be assessed.

(1) The ~~forfeiture~~fine for each day of noncompliance must be divided as follows: Of each day's ~~forfeiture~~fine amount, the first \$50 is paid to the employee to whom compensation is due and the remainder must be paid to the board and be credited to the Workers' Compensation Board Administrative Fund.

(2) If a ~~forfeiture~~fine is assessed against any employer or insurance carrier under this subsection on petition by an employee, the employer or insurance carrier shall pay reasonable costs and attorney's fees related to the ~~forfeiture~~fine, as determined by the board, to the employee.

(3) ~~Forfeitures~~Fines assessed under this subsection may be enforced by the Superior Court in the same manner as provided in section 323.

B. Payment of ~~any forfeiture~~a fine assessed under this subsection is not considered an element of loss for the purpose of establishing rates for workers' compensation insurance.

**Sec. 2. 39-A MRSA §359, sub-§2,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**2. Penalty.** In addition to any other penalty assessment permitted under this Act, the board may assess civil penalties not to exceed ~~\$10,000~~\$25,000 upon finding, after hearing, that an employer, insurer or 3rd-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the board is exempt from the provisions of the Maine Administrative Procedure Act. The amount of any penalty assessed pursuant to this subsection must be directly related to the severity of the pattern of questionable claims-handling techniques or repeated unreasonably contested claims.

All penalties collected pursuant to this subsection must be deposited in the General Fund. An insurance carrier's payment of any penalty assessed under this section may not be considered an element of loss for the purpose of establishing rates for workers' compensation insurance.'

## **SUMMARY**

This amendment changes from mandatory to permissive the assessment of a penalty by the Workers' Compensation Board against an employer or insurance carrier for failure to pay compensation. The amendment increases the maximum penalty for engaging in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims from \$10,000 to \$25,000, as opposed to the \$100,000 maximum proposed in the bill. The amendment also requires that the amount of the penalty be commensurate with the severity of the proscribed acts and that penalties collected go to the General Fund. Finally, the amendment provides that an insurance carrier's payment of any penalty assessed under the Maine Revised Statutes, Title 39-A, section 359 may not be considered an element of loss for the purpose of establishing rates for workers' compensation insurance. This amendment also makes several technical corrections to current law to conform to drafting standards.

## **FISCAL NOTE REQUIRED**

**(See attached)**