

# **Injuries at Work: An Update on Workers' Compensation and OSHA Compliance**

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## How Workers' Compensation and OSHA are Similar and Different

- Both have roots in worker and workplace safety
- Both have reporting requirements
- Workers' Compensation is State law
  - Grand Bargain
  - No-fault
  - Wage Replacement and Medical Treatment
  - Discrimination
- OSHA is Federal law
  - NIOSH
  - No-fault or fault
  - Education and Enforcement
  - Whistleblower remedies

## Workers' Compensation Process and Statistics in Maine

- Structure
- Mission
  - “to serve the employees and employers of the State fairly and expeditiously by ensuring compliance with the workers’ compensation laws, ensuring the prompt delivery of the benefits legally due, promoting the prevention of disputes, utilizing dispute resolution to reduce litigation, and facilitating labor-management cooperation.” 39-A M.R.S.A. §151-A
- Uncontested claim process
  - FROI
  - Medical Treatment
  - Return to Work/Accommodated Work

## Workers' Compensation Process and Statistics in Maine (cont.)

- Contested claim process
  - Mandatory ADR
  - Limited Discovery
  - Medical Experts: § 207 or §312
  - Unitary Hearing
  - Appellate Division
  - No Automatic Right of Appeal to the Law Court
- Recent Statistics in Maine
  - Tri-Agency Annual Report
  - Presented to the Governor and Legislature annually

## Workers' Compensation Process and Statistics in Maine (cont.)

- Recent Statistics in Maine
  - 9<sup>th</sup> highest premium rates
  - MEMIC is the insurer “of last resort” and has 64% of the market
  - Self-insurance has about 30% of the market
  - 13<sup>th</sup> highest average loss cost
  - Bureau of Labor Standards decrease in personnel and funding
  - Lost time claims dropped significantly from the high point in 1989
  - Advocate Division established in 1997
  - Section 312 Independent Medical Examiner

## Workers' Compensation Process and Statistics in Maine (cont.)

- Troubleshooting-average 28 days
- Mediation-average 75 days
- Formal Hearing—including lump sum settlements about the same for the last four years in “months to Decree”
- Average time from requesting a Section 312 examination to appointment is between three to four months!

## Tips to Keep Workers' Compensation Costs Low

- Check references on new hires
- Require complete applications
- Transitional Duty Programs
- Ergonomic Evaluation of Jobs
- Clear Essential Function Descriptions
- Open Communication
- Knowledgeable Preferred Provider
- Willingness to Engage Vocational Specialist

## Law Court and Appellate Division Decisions 2025

Supreme Judicial Court sitting as the Law Court:

- Lorri Bosse v. Sargent Corp. et. al.-calculation of AWW
- Katherine Stovall v. New England Telephone Company et. al.-  
Petition for Restoration on a 1996 date of injury untimely

Appellate Division:

- 19 Appellate Division decisions in 2025
- 17 in 2024; 20 in 2023

## Law Court and Appellate Division Decisions 2025

Stovall v. New England Telephone remand was one of the 17

Themes:

- Section 201(5), subsequent intervening injury or illness is showing up more frequently
- Appellate Division reiterated that dependency at the time of the injury is enough to merit benefits
- Comparative medical/economic circumstances to support a reduction in benefits
- Questions about ALJs speculating in place of medical evidence

## Law Court and Appellate Division Decisions 2025

- Case on “changed economic circumstances” sets dangerous precedent related to leaving work unrelated to work injury
- Section 107 lien calculation and recovery remains challenging
- ALJs Chabot and Hirtle were appealed the most in 2025
- 9 of the 17 appeals were taken by Employees
- None of the appeals taken by Employee were won by the Employee
- Employers prevailed twice in 8 appeals

## OSHA – Federal & State Level

### FEDERAL

- Occupational Safety and Health Administration (OSHA) created – 1970
  - Within federal Department of Labor
- Jurisdiction:
  - **Private sector employers**
  - The federal government
- Local offices:  
Augusta and Bangor

The Maine State Plan

The Maine State Plan has adopted OSHA's occupational safety and health standards with a few minor deviations.

### Jurisdiction:

State employees

Local government employees

### Local office:

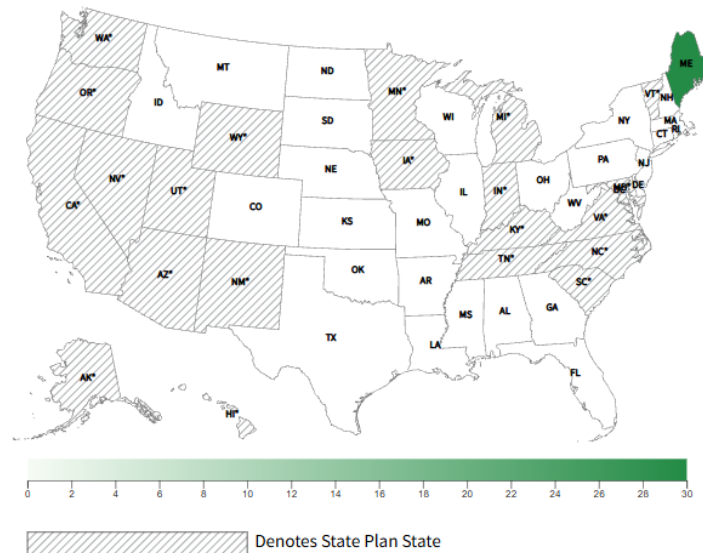
Augusta



# OSHA Report Figures – Maine

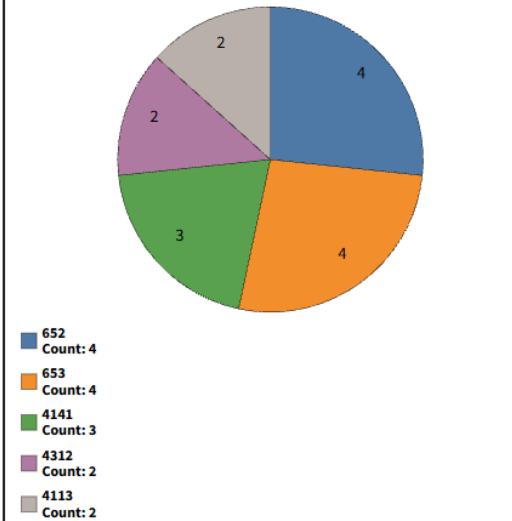
Total Severe Injury Reports	Total Workers Hospitalized	Total Workers with Amputations	Total Workers with Loss of an Eye
<b>30</b>	<b>21</b>	<b>13</b>	<b>0</b>

## Reports By Geography



\* SIRs reported from [OSHA State Plan States](#) are excluded from the SIR dataset used for this dashboard visualization.

## Top 5 Events and Exposures



Reference: SIRs are coded according to the Bureau of Labor Statistics' [Occupational Injury and Illness Classification System \(OIICS\)](#).

- [By Events and Exposures](#)
- [By Sources](#)
- [By Natures](#)
- [By Body Parts](#)

## 2026 Priorities

- Heat Illness Prevention Standard
- Expanded Injury and Illness Recording
- Silica Exposure
- Workplace Violence Prevention
- Infectious Disease Preparedness

## Local Directives

- Seafood Processing
- Tree and Landscaping Operations
- Cranes in Construction
- Noise in the Workplace
- Powered Industrial Trucks
- Residential Construction

## 2025 Data

- 218 Violations within the state
- Some of the larger:
  - Aviation Manufacturing (Complaint)– Initial Penalty \$40,798, reduced to \$20,399. 22 Violations. Largest Serious- Lack of respiratory protection program; no confined space program; failure to test conditions.
  - Remediation Services (Unplanned & Related) – Initial and final - \$54,664. 17 Violations. Largest Serious – lack of fall protection; failure to train in fall protection; no confined space program.
  - Construction (Following Injury/Fatality) – Initial and final - \$95,519. 20 Violations. Largest Serious – Failure to apply heat to multi-piece wheel; failure to follow manufacturers’ instructions with toxic chemicals; failure to follow manufacturers’ instructions on power tools.
- 91 Investigations without violations (complaints, referrals, follow-ups)

## OSHA Citation and Notification of Penalty

U.S. Department of Labor  
Occupational Safety and Health Administration  
40 Western Avenue Rm 121  
Augusta ME 04330



### Citation and Notification of Penalty

To:

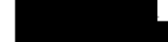


Inspection Number: [REDACTED]

Inspection Date(s): 02/12/2020 — 02/26/2020

Issuance Date: 05/12/2020

Inspection Site:



*The ~~violation(s)~~ described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was Made unless otherwise indicated within the description given below.*

This Citation and Notification of Penalty (this Citation) describes violations of the Occupational Safety and Health Act of 1970. The ~~penalty(ies)~~ listed herein is (are) based on these violations. You must abate the violations referred to in this Citation by the dates listed and pay the penalties proposed, unless within 15 working days (excluding weekends and Federal holidays) from your receipt of this Citation and Notification of Penalty **you either call to schedule an informal conference (see paragraph below) or** you mail a notice of contest to the U.S. Department of Labor Area Office at the address shown above. Please refer to the enclosed booklet (OSHA 3000) which outlines your rights and responsibilities and which should be read in conjunction with this form. Issuance of this Citation does not constitute a finding that a violation of the Act has occurred unless there is a failure to contest as provided for in the Act or, if contested, unless this Citation is affirmed by the Review Commission or a court.

**Posting** - The law requires that a copy of this Citation and Notification of Penalty be posted immediately in a prominent place at or near the location of the violation(s) cited herein, or, if it is not practicable because of the nature of the employer's operations, where it will be readily observable by all affected employees. This Citation must remain posted until the violation(s) cited herein has (have) been abated, or for 3 working days (excluding weekends and Federal holidays), whichever is longer.

**Informal Conference** - An informal conference is not required. However, if you wish to have such a conference you may request one with the Area Director during the 15 working day contest period by calling (207) 626-9160. During such an informal conference you may present any evidence or views which you believe would support an adjustment to the citation(s) and/or ~~penalty(ies)~~.



## Additional Obligations of Citation

Post Citation

Certification of Corrective Action Worksheet

**CERTIFICATION OF CORRECTIVE ACTION WORKSHEET**

Inspection Number: 1344337

Company Name: Mann Distribution, LLC, dba Mann Chemicals  
Inspection Site: 3134 Post Road, Warwick, RI 02886  
Issuance Date: 02/15/2019

List the specific method of correction for each item on this citation in this package that does not read "Corrected During Inspection" and return to: **U.S. Department of Labor – Occupational Safety and Health Administration, 380 Westminister St., Room 543, Providence, RI 02903**

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
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By (Method of Abatement): \_\_\_\_\_

Citation Number \_\_\_\_\_ and Item Number \_\_\_\_\_ was corrected on \_\_\_\_\_  
By (Method of Abatement): \_\_\_\_\_

I certify that the information contained in this document is accurate and that the affected employees and their representatives have been informed of the abatement.

Signature _____	Date _____
Typed or Printed Name _____	Title _____

**NOTE: 29 USC 666(g)** whoever knowingly makes any false statements, representation or certification in any application, record, plan or other documents filed or required to be maintained pursuant to the Act shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment of not more than 6 months or both.

**POSTING:** A copy of completed Corrective Action Worksheet should be posted for employee review

Citation and Notification of Penalty Page 5 of 10 OSHA-2

## Six Categories of OSHA Violations

De Minimis

Other-than-Serious

Serious


Willful

Repeated

Failure to Abate Prior Violations

U.S. Department of Labor  
Occupational Safety and Health Administration

Inspection Number: [REDACTED]  
Inspection Date(s): 08/31/2018 - 01/24/2019  
Issuance Date: 02/15/2019



**Citation and Notification of Penalty**

Company Name: [REDACTED]  
Inspection Site: [REDACTED]

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Citation 1 Item 2 Type of Violation: **Serious**

29 CFR 1910.151(c): Where employees were exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body were not provided within the work area for immediate emergency use:

(a) Sulfuric Acid Rail Car: On or about 8-31-18, the employer did not provide suitable facilities for immediate quick drenching or flushing of the eyes and body within the work area.

Date By Which Violation Must be Abated:	Corrected During Inspection
Proposed Penalty:	<b>\$13260.00</b>

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

Citation and Notification of Penalty Page 7 of 10 OSHA-2

## Informal Conference

- Obtain better understanding of violations cited
- Discuss ways to correct violations cited
- Discuss proposed abatement dates
- Negotiate a reduced penalty
- Resolve disputed citations and penalties through settlement agreement
- Educate OSHA about workplace safety at your organization
  
- It is important to note:
  1. The Informal Conference must take place WITHIN the 15-working-day period
  2. Notice of the Informal Conference must be posted and providing employees an opportunity to attend



## The Formal Contest Process

- Case transferred to Commission and Administrative Law Judge
- OSHA files complaint, employer responds and case proceeds as administrative lawsuit
- Ruling by ALJ can be appealed to OSHA Review Commission
- Commission ruling can be appealed to Federal Court



## Elements of Effective Health and Safety Program

Management leadership AND employee participation

Workplace hazard analysis  
(initial and routine)

Written safety manual

Training, training, training

Encourage safety culture

Evaluation or internal audit



**Thank You!**

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