

# 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 scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND SIXTH LEGISLATURE

---

---

Legislative Document

No. 1574

---

---

H. P. 1212

House of Representatives, March 22, 1973

Referred to the Committee on Labor. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Tierney of Durham.

---

---

STATE OF MAINE

---

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

---

AN ACT to Amend the Employment Security Law.

---

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 26, § 1043, sub-§ 1, amended. The last sentence of the first paragraph and the last paragraph of subsection 1 of section 1043 of Title 26 of the Revised Statutes, as repealed and replaced by section 1 of chapter 538 of the public laws of 1971, are amended to read as follows:

Services performed for an operator or group of operators of a farm in connection with processing or packing ~~transportation, or marketing~~ of the produce of such farm does not constitute "agricultural labor," unless more than  $\frac{1}{2}$  of the product is produced by the operator or group of operators for which the services were performed.

This subsection shall not be deemed to be applicable with respect to service performed in connection with commercial canning or freezing of an agricultural product; ~~or the commercial~~ hatching or processing of poultry, transportation of poultry; grading of eggs or packing of eggs, transportation of eggs; the processing of any meat product or the transportation of any meat product.

Sec. 2. R. S., T. 26, § 1043, sub-§ 3, amended. Subsection 3 of section 1043 of Title 26 of the Revised Statutes, as repealed and replaced by section 1 of chapter 381 of the public laws of 1965, is amended by adding the following new sentence:

In the case of a combined-wage claim pursuant to the arrangement approved by the secretary in accordance with section 1082, subsection 12, the base period shall be that applicable under the unemployment compensation law of the paying state.

**Sec. 3. R. S., T. 26, § 1043, sub-§ 5, amended.** Subsection 5 of section 1043 of Title 26 of the Revised Statutes, as repealed and replaced by section 2 of chapter 381 of the public laws of 1965, is amended by adding at the end the following blocked paragraph:

**In the case of a combined-wage claim pursuant to the arrangement approved by the secretary in accordance with section 1082, subsection 12, the benefit year shall be that applicable under the unemployment compensation law of the paying state.**

**Sec. 4. R. S., T. 26, § 1043, sub-§ 8, repealed and replaced.** Subsection 8 of section 1043 of Title 26 of the Revised Statutes is repealed and the following enacted in place thereof:

**8. Money payments to the State Unemployment Compensation Fund.**

**A. "Contributions" means the money payments required by section 1221, subsection 1 to be made into the fund by an employer on account of having individuals performing services for him.**

**B. "Payments in lieu of contributions" means the money payments made into the fund by an employer pursuant to section 1221, subsections 11 and 13.**

**Sec. 5. R. S., T. 26, § 1043, sub-§ 11, ¶ A-1, sub-¶¶ (1) and (3), amended.** Subparagraphs (1) and (3) of paragraph A-1 of subsection 11 of section 1043 of Title 26 of the Revised Statutes, as enacted by section 8 of chapter 538 of the public laws of 1971, are amended to read as follows:

(1) Notwithstanding paragraph F, except as herein provided, service performed by an individual in the employ of this State or any of its instrumentalities, or in the employ of this State and one or more states or their instrumentalities, for a hospital or institution of higher education located in this State, provided that such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (7) of that Act and is not excluded under paragraph F, ~~subparagraphs subparagraph (21) to (28)~~, **divisions (a) through (h)**;

(3) Notwithstanding paragraph F, except as herein provided, service performed in the employ of a religious, charitable, educational or other organization which is excluded from the term employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (8) of that Act; and the organization had 4 or more individuals in employment for some portion of a day in each of 20 different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time; and such services are not excluded under paragraph F, ~~subparagraphs subparagraph (21) to (28)~~, **divisions (a) through (h)**;

**Sec. 6. R. S., T. 26, § 1043, sub-§ 11, ¶ F, sub-¶¶ (21) to 28, repealed and replaced.** Subparagraphs (21) to (28) of paragraph F of subsection 11 of section 1043 of Title 26 of the Revised Statutes, as enacted by section 12 of chapter 539 of the public laws of 1971, are repealed and the following enacted in place thereof:

(21) Service performed in the employ of any organization which is excluded from the term "employment" as defined in the Federal Unemployment Tax Act solely by reason of section 3306 (c) (7) or (8) if:

(a) Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled or principally supported by a church or convention or association of churches;

(b) Service performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

(c) Service performed in the employ of a school primarily operated as an elementary, secondary or preparatory school for higher education, which is not an institution of higher education;

(d) Service performed in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work;

(e) Service performed as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof by an individual receiving such work-relief or work-training;

(f) Service performed in the employ of a hospital as defined in subsection 26 by a patient of such hospital;

(g) Service performed for a hospital in a state prison or other state correctional institution by an inmate of such prison or correctional institution;

(h) Service performed in the employ of a school, college or university, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university.

Sec. 7. R. S., T. 26, § 1043, sub-§ 14, amended. Subsection 14 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

14. Fund. "Fund" means the Unemployment Compensation Fund to which all contributions and payments in lieu of contributions required and from which all benefits provided under this chapter shall be paid.

Sec. 8. R. S., T. 26, § 1043, sub-§ 17, ¶ B, amended. Paragraph B of subsection 17 of section 1043 of Title 26 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 457 of the public laws of 1965, is amended to read as follows:

B. An individual shall be deemed "partially unemployed" in any week of less than full-time work if his wages payable from any source for such

week are not \$5 or more in excess of the weekly benefits amount he would be entitled to receive if totally unemployed and eligible, except that remuneration payable or received as holiday pay shall not be deemed wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received ~~by as~~ ~~a volunteer fireman~~ ~~fireman~~, shall not be deemed wages for the purpose of this subsection.

**Sec. 9. R. S., T. 26, § 1043, sub-§ 18, amended.** Subsection 18 of section 1043 of Title 26 of the Revised Statutes is amended to read as follows:

**18. Unpaid wages.** "Unpaid wages" means wages earned by an employee for employment from employers which remain unpaid because the assets of the employer for whom such employment was rendered are in the custody or control of an assignee for the benefit of creditors, receiver, trustee or any other fiduciary appointed by or under the control of a court of competent jurisdiction and shall, for all the purposes of this chapter, be deemed to be and shall be treated as though such wages had been paid to such employee during the calendar ~~year~~ **quarter** within which such wages were earned.

**Sec. 10. R. S., T. 26, § 1141, sub-§ 1, amended.** Subsection 1 of section 1141 of Title 26 of the Revised Statutes is amended to read as follows:

**1. Contributions.** All contributions and payments in lieu of contributions collected under this chapter;

**Sec. 11. R. S., T. 26, § 1191, sub-§ 2, amended.** Subsection 2 of section 1191 of Title 26 of the Revised Statutes, as repealed and replaced by section 8 of chapter 381 of the public laws of 1965 and as amended, is further amended to read as follows:

**2. Weekly benefit amount for total unemployment.** Each eligible individual establishing a benefit year on and after January 1, ~~1972~~ **1974**, who is totally unemployed in any week shall be paid with respect to such week benefits equal to  $1/22$  of the wages, rounded to the nearest dollar, paid to him in the high quarter of his base period, but not less than \$12. The maximum weekly benefit amount for claimants requesting insured status determination from June 1st of a calendar year to May 31st of the next calendar year shall not exceed ~~52%~~  **$66\frac{2}{3}\%$**  of the annual average weekly wage, rounded to the nearest dollar, paid in the calendar year preceding June 1st of such calendar year.

**Sec. 12. R. S., T. 26, § 1192, sub-§ 4, repealed.** Subsection 4 of section 1192 of Title 26 of the Revised Statutes, as amended by chapter 409 of the public laws of 1965, is repealed.

**Sec. 13. R. S., T. 26, § 1193, sub-§§ 3 and 6, amended.** Subsection 3, as amended, and subsection 6 of section 1193 of Title 26 of the Revised Statutes are amended to read as follows:

**3. Refused to accept work.** For the duration of his unemployment subsequent to his having refused to accept an offer of suitable work for which

he is reasonably fitted, or having refused to accept a referral to a suitable job opportunity when directed to do so by a local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to suitable employment; or the individual fails to respond to a request to report to the local office for the purpose of a referral to a suitable job, and the disqualification shall continue until claimant has earned 8 times his weekly benefit amount; except, that, if the commission determines that refusal has occurred for cause of necessitous and compelling nature, the individual shall be ineligible for the week in which the refusal occurred and while such inability or unavailability continues.

6. **Has falsified.** For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact in his application to obtain benefits, and ~~the disqualification shall continue until claimant shall have earned not less than \$400 thereafter in subsequent employment~~ In addition, if the deputy finds that the claimant did in fact knowingly accept benefits to which he was not entitled, he shall find the claimant shall be ineligible to receive any benefits for a further period of not less than 3 months nor more than one year from the mailing date of the determination;

Sec. 14. R. S., T. 26, § 1195, sub-§ 9, additional. Section 1195 of Title 26 of the Revised Statutes, as enacted by chapter 119 of the public laws of 1971, is amended by adding a new subsection 9 to read as follows:

9. **Effect of amendments to the Federal-State Extended Unemployment Compensation Act of 1970.** If the Federal-State Extended Unemployment Compensation Act of 1970 is amended so as to authorize this State to pay benefits for an extended benefit period in a manner other than that currently provided by this section, then, and in such case, all the terms and conditions contained in the amended provisions of such federal law shall become a part of this section to the extent necessary to authorize the payment of benefits to eligible individuals as permitted under such amended provision.

Sec. 15. R. S., T. 26, § 1221, sub-§ 1, ¶ A, amended. The first sentence of paragraph A of subsection 1 of section 1221 of Title 26 of the Revised Statutes is amended to read as follows:

Contributions shall accrue and become payable by each employer subject to this chapter, other than those liable for payments in lieu of contributions, for each calendar year in which he is subject to this chapter, with respect to wages for employment, as defined in section 1043, subsection 11.

Sec. 16. R. S., T. 26, § 1221, sub-§ 2, amended. Subsection 2 of section 1221 of Title 26 of the Revised Statutes is amended to read as follows:

2. **Rate of contribution.** Each employer subject to this chapter, other than those liable for payments in lieu of contributions, shall pay contributions at the rate of 2.7% of the wages paid by him with respect to employment during each calendar year, except as otherwise prescribed in subsection 4.

**Sec. 17. R. S., T. 26, § 1221, sub-§ 3, ¶ A, sub-¶ (3), amended.** Subparagraph (3) of paragraph A of subsection 3 of section 1221 of Title 26 of the Revised Statutes is amended to read as follows:

(3) Benefits paid are not chargeable against any employer's experience rating record in accordance with section 1194, subsection ~~2~~ 11, paragraphs B and C; or

**Sec. 18. R. S., T. 26, § 1221, sub-§ 3, ¶ C, repealed.** Paragraph C of subsection 3 of section 1221 of Title 26 of the Revised Statutes, as amended, is repealed.

**Sec. 19. R. S., T. 26, § 1221, sub-§ 10, ¶ F, additional.** Subsection 10 of section 1221 of Title 26 of the Revised Statutes, as enacted by section 41 of chapter 538 of the public laws of 1971, and as amended, is further amended by adding a new paragraph F to read as follows:

**F. Any nonprofit organization, which has been liable for payments in lieu of contributions whose election to make payments in lieu of contributions terminates under paragraphs A or C, shall be deemed to be an employer newly subject to this chapter for purposes of subsection 4, paragraph A.**

**Sec. 20. R. S., T. 26, § 1221, sub-§ 11, ¶ G, additional.** Subsection 11 of section 1221 of Title 26 of the Revised Statutes, as enacted by section 42 of chapter 538 of the public laws of 1971, is amended by adding a new paragraph G to read as follows:

**G. Refunds of payments in lieu of contributions or interest thereon shall be subject to the same provision that, pursuant to section 1223, subsection 5, applies to refunds of contributions or interest thereon.**

**Sec. 21. R. S., T. 26, § 1223, sub-§ 1, amended.** The first sentence of subsection 1 of section 1223 of Title 26 of the Revised Statutes is amended to read as follows:

Contributions, unpaid on the date on which they are due and payable as prescribed by the commission, shall bear interest at the rate of ~~1/2~~ ~~of~~ 1% per month from and after such date until payment is received by the commission.

**Sec. 22. Effective date.** Section 11 of this Act shall become effective on January 1, 1974.

## STATEMENT OF FACT

This bill amends the Employment Security Law to conform to federal requirements and to clarify certain provisions for better administration and provides a vehicle to enable the State to take full advantage of federal-state extended unemployment insurance benefits, and to revise certain sections of the Employment Security Law to extend and improve the State Unemployment Compensation Program.