

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 478

H. P. 431

House of Representatives, January 28, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Beaulieu of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

**AN ACT to Clarify the Misconduct Provision of the Employment Security Law.**

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

**26 MRSA § 1193, sub-§ 2, first sentence**, as amended by PL 1979, c. 651, § 46, is further amended to read:

For the week in which he has been discharged for misconduct connected with his work, if so found by the deputy, and disqualification shall continue until claimant has earned 4 times his weekly benefit amount in employment by an employer; **provided no disqualification may be imposed if the discharge resulted from the claimant's alcoholism or drug addiction and the condition can be verified by a competent professional source.**

STATEMENT OF FACT

In order to be disqualified for misconduct under the employment security law a person must have intentionally acted against the interest of his employer. It is the willfulness of the act, the intentionality, that distinguishes it from a simple mistake and elevates it to "misconduct."

Alcoholism and drug addiction have long been medically recognized as illnesses. One unfortunate result of such an illness is that a person may be unable to control his actions at certain times. In an employment context this means that he might

do something over which he has no control but which results in his termination. Since this act resulted from his illness and lacked the requisite intentionality necessary for a finding of misconduct, he should not be disqualified.

This bill is intended to direct the department's interpretation of misconduct in such cases. It further requires that the condition be verified by a competent professional source such as a doctor, alcohol rehabilitation counselor, professional social worker, or the like.

Any person who loses his job as a result of alcohol or drug addiction must show, as must all claimants, that he is able, available and actively seeking work.