

MAINE STATE LEGISLATURE

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1 (New draft of S.P. 281, L.D. 846)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 1503

7
8 S.P. 497

In Senate, April 21, 1983

9 Reported by Senator Sewall of Lincoln from the Committee on Labor and
10 printed under Joint Rule 2.

11 Original Bill: Sponsored by Senator Dutremble of York. Cosponsored by:
Representative Foster of Ellsworth, Representative Beaulieu of Portland and
Senator Hayes of Penobscot.

JOY J. O'BRIEN, Secretary of the Senate

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-THREE
17

18 AN ACT to Clarify, Simplify and Improve
19 Certain Sections of the Labor Laws of Maine.
20

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

23 Sec. 1. 26 MRSA §1051, sub-§5, as amended by PL
24 1981, c. 327, is further amended to read:

25 5. Refusal to repay erroneous payments; waiver
26 of repayment. If, after due notice, any person
27 refuses to repay amounts erroneously paid to him as
28 unemployment benefits, the amounts due from that
29 person shall be collectible in the manner provided in
30 subsection 6 or in the discretion of the commission
31 the amount erroneously paid to such person may be
32 deducted from any future benefits payable to him
33 under this chapter. ~~Provided~~; provided that there
34 shall be no recovery of payments from any person who,

1 in the judgment of at least 2 commissioners commis-
2 sion members, is without fault on his part and where,
3 in the judgment of the commission, such recovery
4 would defeat the purpose of benefits otherwise
5 authorized or would be against equity and good con-
6 science. No recovery may be attempted until the
7 determination of an erroneous payment is final as to
8 law and fact and the individual has been notified of
9 the opportunity for a waiver under this subsection.

10 Sec. 2. 26 MRSA §1191, sub-§2, as amended by PL
11 1981, c. 342, §1, is further amended to read:

12 2. Weekly benefit amount for total unemployment.
13 Each eligible individual establishing a benefit year
14 on and after January 1, 1972, who is totally unem-
15 ployed in any week shall be paid with respect to such
16 week, benefits equal to 1/22 of the wages, rounded to
17 the nearest dollar, paid to him in the high quarter
18 of his base period, but not less than \$12. The maxi-
19 mum weekly benefit amount for claimants requesting
20 insured status determination from June 1st of a cal-
21 endar year to May 31st of the next calendar year
22 shall not exceed 52% of the annual average weekly
23 wage, rounded to the nearest dollar, paid in the cal-
24 endar year preceding June 1st of such calendar year.

25 ~~The amount of benefits payable to an eligible indi-~~
26 ~~vidual with respect to any week of total unemployment~~
27 ~~shall be reduced by the amount of any holiday pay~~
28 ~~which the individual has received or is entitled to~~
29 ~~receive for that week-~~

30 Sec. 3. 26 MRSA §1191, sub-§3, as amended by PL
31 1981, c. 342, §2, is further amended to read:

32 3. Weekly benefit for partial unemployment.
33 Each eligible individual who is partially unemployed
34 in any week shall be paid with respect to such week a
35 partial benefit in an amount equal to this weekly
36 benefit amount less that part of his earnings,
37 ~~including holiday pay,~~ paid or payable to him with
38 respect to such week which is in excess of \$10 plus
39 any fraction of a dollar, except that any amounts
40 received from the Federal Government by members of
41 the National Guard and organized reserve, including
42 base pay and allowances or any amounts received as a

1 volunteer fireman or as elected members of the Legis-
2 lature, shall not be deemed wages for the purpose of
3 this subsection.

4 On and after January 1, 1978, each eligible indi-
5 vidual who, affirmatively terminated from his regular
6 employment for a period in excess of 4 consecutive
7 calendar weeks, is employed less than 40 hours for a
8 period not exceeding 2 consecutive calendar weeks or
9 performs odd jobs shall be paid an amount equal to
10 his weekly benefit amount less:

11 A. 50% of his earnings paid or payable to him
12 with respect to such week in excess of \$10 up to
13 \$35, plus any fraction of a dollar; and

14 B. 100% of his earnings paid or payable to him
15 with respect to such week in excess of \$35, plus
16 any fraction of a dollar.

17 Sec. 4. 26 MRSA §1193, sub-§5, ¶A is amended to
18 read:

19 A. Dismissal wages ~~or~~, wages in lieu of notice
20 ~~or~~, terminal pay ~~or~~, vacation pay or holiday pay;
21 or

22 Sec. 5. 26 MRSA §1193, sub-§7, as amended by PL
23 1979, c. 428, §6, is further amended to read:

24 7. Discharged for crime. For the period of unem-
25 ployment next ensuing with respect to which he was
26 discharged for conviction of felony or misdemeanor in
27 connection with his work. The ineligibility of such
28 individual shall continue for all weeks subsequent
29 until such individual has thereafter earned not less
30 than ~~\$400~~ \$600 in employment by an employer.

31 Sec. 6. 26 MRSA §1194, sub-§10, as amended by PL
32 1981, c. 547, §1, is further amended to read:

33 10. Determination may be reconsidered; appeal.
34 The deputy may reconsider a determination with
35 respect to the weekly benefit amount and maximum
36 total amount of benefits for a claimant for any given
37 benefit year, if he finds that an error ~~in computa-~~

1 ~~tion or identity~~ has occurred in connection there-
2 with, or that wages have been erroneously reported,
3 but no such redetermination shall be made after one
4 year from the date of the original determination.
5 Notice of any such redetermination shall be promptly
6 given to the parties entitled to notice of the origi-
7 nal determination, in the manner prescribed in this
8 section with respect to notice of an original deter-
9 mination. If the maximum amount of benefits is
10 increased upon such redetermination, an appeal there-
11 from solely with respect to the matters involved in
12 such increase may be filed in the manner and subject
13 to the limitations provided in subsection 2. If the
14 amount of benefits is decreased upon such redeter-
15 mination, the matters involved in such decrease shall
16 be subject to an appeal by claimant with respect to
17 subsequent benefits which may be affected by the
18 redetermination. An appeal may be filed in the man-
19 ner and subject to the limitations provided in sub-
20 section 2.

21 The deputy may reconsider a benefit payment for any
22 particular week or weeks whenever he finds that an
23 ~~error in computation or identity~~ has occurred in ~~con-~~
24 ~~nection therewith or that earnings were erroneously~~
25 ~~reported~~, but no such redetermination may be made
26 after one year from the date of payment for such week
27 or weeks. Notice of any such redetermination shall
28 be promptly given to the claimant. Subject to sub-
29 section 11, unless the claimant files an appeal from
30 such redetermination within ~~15~~ 20 calendar days after
31 such redetermination was mailed to his last known ad-
32 dress, such redetermination shall be final.

33 Subject to the same limitations and for the same
34 reasons, the commission may reconsider the determina-
35 tion in any case in which the final decision has been
36 rendered by an appeal tribunal, the commission or a
37 court, and may apply to the body or court which
38 rendered such final decision to issue a revised deci-
39 sion. In the event that an appeal involving an origi-
40 nal determination is pending as of the date a
41 redetermination thereof is issued, such appeal,
42 unless withdrawn, shall be treated as an appeal from
43 such redetermination.

44 Sec. 7. 26 MRSA §1195, sub-§3-C, ¶C, as enacted
45 by PL 1981, c. 228, is amended to read:

1 C. No individual may be denied extended benefits
2 for failure to accept an offer of or apply for
3 any job which meets the definition of suitability
4 described in this subsection if:

5 (1) The position was not offered to the
6 individual in writing and or was not listed
7 with the employment service;

8 (2) The failure could not result in a denial
9 of benefits under the definition of suitable
10 work for regular benefit claimants in
11 section 1193, subsection 3 to the extent
12 that the criteria of suitability in that
13 section are not inconsistent with this sub-
14 section; and

15 (3) The individual furnishes satisfactory
16 evidence to the deputy that his prospects
17 for obtaining work in his customary occupa-
18 tion within a reasonably short period are
19 good. If the evidence is deemed satisfac-
20 tory for this purpose, the determination of
21 whether any work is suitable with respect to
22 that individual shall be made in accordance
23 with the definition of suitable work for
24 regular benefit claimants in section 1193,
25 subsection 3 without regard to the defini-
26 tion specified by this subsection.

27 Sec. 8. 26 MRSA §1401, 2nd ¶, as amended by PL
28 1981, c. 168, §§20, 26, is further amended to read:

29 The Commissioner of Labor shall receive a fixed
30 weekly salary in accordance with Title 2, section 6,
31 and shall be paid from the administrative funds of
32 the Maine Employment Security Unemployment Insurance
33 Commission, Bureau of Employment Security, the Bureau
34 of Labor Standards and from other program administra-
35 tive funds which he is authorized by statute to ad-
36 minister. The commissioner may establish an Office
37 of the Commissioner, consisting of such personnel as
38 deemed necessary to carry out the duties and respon-
39 sibilities of the commissioner and paid from adminis-
40 trative funds from programs the commissioner is
41 authorized to administer.

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STATEMENT OF FACT

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Section 1 makes a technical correction of the law by changing the word "commissioners" to "commission members," referring to individuals who serve on the Maine Unemployment Insurance Commission.

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Sections 2, 3 and 4 place all reductions in benefits, other than wages, under one section for the sake of clarity and simplicity.

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Section 5 increases the wages required for requalification for unemployment benefits for individuals who were discharged from employment due to a crime connected with the individual's work. "Wages equal to 4 times an individual's weekly benefit amount" is the requalifying requirement for individuals who voluntarily left work. Since the maximum weekly benefit amount is \$124 and the average is now approximately \$100, the sanction intended by the law is totally subverted in many cases.

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Section 6 will assure that an error for any reason in a benefit payment may be reconsidered by a deputy. Present law unnecessarily restricts the ability of deputies to correct errors.

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Section 7 is necessary for conformity with federal law. An interpretation of federal law made subsequent to the passage of the state law requires changing the word "and" to "or."

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Section 8 allows the commissioner to establish a staff similar to that in other state departments which is directly responsible to the commissioner and intended to work on issues which are department-wide rather than specific to a given bureau or agency.

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