

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1996

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Legislative Document

No. 1846

S.P. 738

In Senate, March 12, 1996

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### **An Act to Combine Certain Reporting Requirements for Employees.**

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Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS  
Secretary of the Senate

Presented by Senator RUHLIN of Penobscot. (GOVERNOR'S BILL).  
Cosponsored by Representative REED of Falmouth and  
Senators: BEGLEY of Lincoln, CAREY of Kennebec, GOLDTHWAIT of Hancock,  
Representatives: HATCH of Skowhegan, LEMAIRE of Lewiston, TUTTLE of Sanford.

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

2  
4       **Sec. 1. 26 MRSA 1082, sub-§13**, as amended by PL 1993, c. 312, §1, is further amended to read:

6       **13. Filing payroll reports; penalty.** The commission may  
8       prescribe rules for the filing of payroll reports for the  
10       employing units in the State. Each employing unit shall submit a  
12       quarterly payroll report on those forms the bureau prescribes and  
14       these quarterly reports are due in the office of the bureau, or  
16       of any duly constituted agent of the bureau, on or before the  
18       last day of the month following the close of the calendar quarter  
20       for which the reports relate. The failure on the part of any  
22       employing unit to file the payroll reports within ~~the time stated~~  
24       ~~by rule of the commission~~ this time frame renders the employing  
26       unit liable ~~to~~ for a penalty of \$25, ~~unless the delay was~~  
28       ~~occasioned by the illness or death of the person in charge of the~~  
30       ~~records of the employing unit or by other unavoidable occurrence~~  
32       ~~that excuses the employing unit from the penalty, except that an~~  
34       ~~extension of time up to 30 days beyond the prescribed due date~~  
36       ~~for a quarterly payroll report may be allowed for good cause upon~~  
38       ~~written request made on or before the due date~~ or 10% of the tax  
40       due, whichever is greater.

42       Provided that in the case of executive, administrative and  
44       professional employees, and outside sales representatives, as  
46       defined in Part 541 of the Rules and Regulations promulgated  
48       under the Fair Labor Standards Act of 1938, as amended as of June  
50       30, 1971, the commissioner, upon the request of an employer of  
those individuals, may approve an alternative method for  
obtaining from that employer necessary wage information relative  
to those employees.

34       **Sec. 2. 26 MRSA §1082, sub-§14, ¶¶A and B**, as amended by PL  
36       1979, c. 651, §45, are further amended to read:

38       A. ~~Determination.~~ The Director of Unemployment Compensation  
40       or a representative of the commissioner duly authorized by  
42       the commissioner to do so shall determine whether an  
44       employing unit is an employer and whether services performed  
46       for or in connection with the business of the employing unit  
48       constitute employment, and shall give written notice of the  
50       determination to the employing unit. Unless such the  
employing unit, within ~~15~~ 30 calendar days after  
notification was mailed to its last known address, files an  
appeal from such that determination, such the determination  
~~shall be~~ is final.

50       B. ~~Redetermination.~~ After a determination has been made  
under paragraph A, the Director of Unemployment Compensation

2 or a representative of the commissioner may within one year  
3 reconsider the determination in the light of additional  
4 evidence and make a redetermination and shall give written  
5 notice of the redetermination to the employing unit. Unless  
6 such the employing unit, within ~~15~~ 30 calendar days after  
7 notification was mailed to its last known address, files an  
8 appeal from such that redetermination, such the  
redetermination shall-be is final.

10 **Sec. 3. 26 MRSA §1221, sub-§1, ¶A**, as amended by PL 1979, c.  
11 651, §24, is further amended to read:

12 A. Contributions shall accrue and become payable by each  
13 employer subject to this chapter, other than those liable  
14 for payments in lieu of contributions, for each calendar  
15 year in which he the employer is subject to this chapter,  
16 with respect to wages for employment, as defined in section  
17 1043, subsection 11. ~~Such~~ These contributions shall become  
18 due and must be paid by each employer to the bureau for the  
19 fund ~~in accordance with such regulations as the commission~~  
20 ~~may prescribe, on or before the last day of the month~~  
21 ~~following the close of the calendar quarter to which the~~  
22 ~~contributions relate and shall may not be deducted, in whole~~  
23 ~~or in part, from the wages of individuals-in-his-employ~~ the  
24 employees.

26 **Sec. 4. 26 MRSA §1225, sub-§§3 and 4**, as amended by PL 1993, c.  
27 312, §3, are further amended to read:

28 **3. Interest on past-due contributions.** Contributions are  
29 due and payable on or before the last day of the month following  
30 the close of the calendar quarter to which contributions relate.  
31 Contributions that are unpaid on the date on which they are due  
32 and payable, ~~as prescribed by rule,~~ bear interest at the rate  
33 determined by the State Tax Assessor as established by Title 36,  
34 section 186, from and after the due date, until payment is  
35 received by the bureau. ~~The interest rate determined by the~~  
36 ~~State Tax Assessor, for the purposes of this section, is in~~  
37 ~~effect for the full calendar year following the year in which it~~  
38 ~~is determined.~~ If it is shown to the satisfaction of the  
39 commissioner that the delinquency arose from reasonable questions  
40 of liability under this subchapter, the commissioner, in the  
41 commissioner's discretion, may abate part of the interest not to  
42 exceed 75% of the total interest. If it is shown to the  
43 satisfaction of the commissioner that the delinquency arose  
44 through no fault of the employer, no an assessment of interest  
45 may not be made.

46 **4. Penalty on past-due contributions.** If quarterly  
47 contributions are not paid when due, the commissioner shall  
48

2 assess, ~~for the first 30 days after the due date or a waiver, a~~  
penalty of ~~2%~~ of the amount of the contributions and thereafter a  
4 penalty of ~~5%~~ a penalty of 1% of the amount of the unpaid  
contributions. ~~The commissioner may waive that penalty if it is~~  
6 ~~determined that the delay was occasioned by the illness or death~~  
of the person in charge of the records of the employing unit or  
8 ~~by some other unavoidable occurrence. The commissioner may allow~~  
an extension of time up to 30 days beyond the due date for good  
10 ~~cause upon written request made on or before the due date for~~  
each month or fraction of a month during which the failure  
12 continues, to a maximum in the aggregate of 25% of the unpaid  
contributions.

14 **Sec. 5. 26 MRSA §1225, sub-§8** is enacted to read:

16 **8. Reasonable cause.** For reasonable cause, the  
commissioner shall waive or abate any penalty imposed by  
18 subsection 4 and section 1082, subsection 13. Reasonable cause  
includes, but is not limited to, the following:

20 A. The failure to file or pay resulted directly from  
22 erroneous information provided by the Department of Labor;

24 B. The failure to file or pay resulted directly from the  
death or serious illness of the taxpayer or a member of the  
26 taxpayer's immediate family;

28 C. The failure to file or pay resulted directly from a  
natural disaster;

30 D. The report was filed and paid less than one month late  
32 and all of the taxpayer's reports and payments during the  
preceding 3 years were timely; or

34 E. The amount subject to a penalty is de minimis when  
36 considered in relation to the amount otherwise properly paid  
and the number of employees for whom wages are being  
38 reported.

40 The burden of establishing reasonable cause for waiver or  
42 abatement is on the taxpayer.

44 **Sec. 6. 26 MRSA §1226, sub-§1, ¶A**, as amended by PL 1983, c.  
351, §29, is further amended to read:

46 A. An employer may appeal determinations by the  
48 commissioner or his the commissioner's designated  
representatives made under sections 1221, 1222 and 1225, or  
an assessment made under section 1225, to the commission by  
50 filing an appeal, in accordance with such regulations as

