

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1517

H.P. 1080

House of Representatives, March 13, 1997

**An Act to Enhance the Collection of Unemployment Benefit
Overpayments.**

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative PENDLETON of Scarborough.
Cosponsored by Representatives: HATCH of Skowhegan, TREADWELL of Carmel.

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

Sec. 1. 26 MRSA §1051, sub-§6, ¶C is enacted to read:

C. If the amount of benefit payments owed to the commissioner when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194 is over \$500, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision and the individual has failed to make payments for 90 days, the amount due may be collected by an order to withhold and deliver as follows.

(1) The commissioner may serve on any person an order to withhold and deliver wages that are due or belong to the individual. Any person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

(2) Before implementation of the order to withhold, the individual must be served with a notice of intention to withhold weekly earnings.

(3) If the individual requests review of a notice of debt accrued or seeks relief in a court of proper jurisdiction, and if the Department of Labor receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The Department of Labor shall accept ordinary mail service of copies of all pleadings, which must be addressed to the Department of Labor representative whose name appears on the face of the notice of debt. Service upon the Department of Labor must be in addition to any other service required under the Maine Rules of Civil Procedure.

(4) Upon receipt of an order to withhold issued by the Department of Labor, the employer or other payor shall immediately begin withholding from the income of the responsible individual 10% of gross wages. Sums withheld must be remitted to the Department of Labor within 10 days of the date the individual is paid. Any person who honors an order to withhold issued under this section is discharged from any liability or obligation to the individual for the amount of the wages withheld.

(5) The withholding may be terminated with regard to a current obligation only upon notification by the commissioner.

2 (6) An employer may not discharge an employee because
4 a lien or order to withhold and deliver has been served
6 against the employee's earnings. An aggrieved employee
 may maintain a civil action against his or her employer
 for violation of this section.

8 **Sec. 2. 26 MRSA §1051, sub-§8** is enacted to read:

10 8. Setoff of debts against lottery winnings. Lottery
12 winnings may be offset for benefit payments owed to the
 commissioner in accordance with this subsection.

14 A. The commissioner shall periodically notify the
16 Department of Finance, Bureau of Lottery of all persons who
18 owe the Department of Labor an unemployment compensation
20 debt that has been liquidated by judicial or administrative
22 action. Before paying any state lottery winnings that must
24 be paid directly by the Bureau of Lottery, the Bureau of
26 Lottery shall determine whether the lottery winner is on the
28 list of persons who owe to the State an unemployment
30 compensation debt that has been liquidated by judicial or
32 administrative action. If the winner is on a list of
34 persons who owe unemployment compensation debts, the Bureau
36 of Lottery shall suspend payment of winnings and notify the
38 winner of its intention to offset the winner's unemployment
40 compensation debt against the winnings. The Bureau of
42 Lottery shall notify the winner of the winner's right to
44 appeal to the Commissioner of Labor pursuant to Title 5,
 chapter 375. The winner must appeal in writing within 15
 days of receipt of that notice. The hearing is limited to
 the questions of whether the debt is liquidated and whether
 post-liquidation events have affected the winner's
 liability. The decision of the Department of Labor as to
 the existence of a liquidated debt constitutes final agency
 action. If, within 90 days of the notice of intended setoff
 to the winner, the Department of Labor certifies to the
 Bureau of Lottery that the winner did not make a timely
 request for hearing or that a hearing was held and the debt
 was upheld, the Bureau of Lottery shall offset the
 liquidated debt against the winnings due to the winner. Any
 remaining winnings are paid to the winner. If the Bureau of
 Lottery does not hear from the Department of Labor within 90
 days of the notice of intended setoff to the winner, the
 Bureau of Lottery shall release all winnings to the winner.

46 B. The commissioner shall periodically notify the Tri-state
48 Lotto Commission of all persons who owe the Department of
50 Labor an unemployment compensation debt that has been
 liquidated by judicial or administrative action.

SUMMARY

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This bill is necessary to enhance the Department of Labor's ability to increase its annual collection of unemployment benefit overpayments through wage garnishment and the offset of lottery winnings.