

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST SPECIAL SESSION-1997

Legislative Document

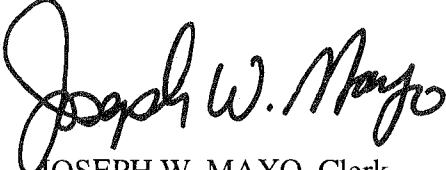
No. 1709

H.P. 1209

House of Representatives, April 1, 1997

An Act Regarding Errors and Inconsistencies in the Maine Employment Security Law.

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


JOSEPH W. MAYO, Clerk

Presented by Representative PENDLETON of Scarborough.
Cosponsored by Senator CATHCART of Penobscot and
Representatives: HATCH of Skowhegan, SAMSON of Jay, TREADWELL of Carmel.

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

2 **Sec. 1. 26 MRSA §1043, sub-§9, ¶G**, as amended by PL 1971, c.
4 538, §5, is further amended to read:

6 G. Any individual or employing unit ~~which~~ that acquired any
8 part of the organization, trade or business or assets of
10 another ~~which-part,~~ and the acquired part, had it previously
under paragraphs A, A-1, H or J;

12 **Sec. 2. 26 MRSA §1043, sub-§11, ¶A-1**, as amended by PL 1979, c.
14 541, Pt. A, §179, is further amended in sub-¶(3) to read:

16 (3) Notwithstanding paragraph F, except as herein
18 provided, service performed in the employ of a
20 religious, charitable, educational or other
22 organization ~~which~~ that is excluded from the term
24 employment as defined in the Federal Unemployment Tax
26 Act solely by reason of ~~section~~ Section 3306 (c)(8) of
28 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,
subparagraph (21), divisions (a) through (h) (i);

30 **Sec. 3. 26 MRSA §1043, sub-§19, ¶B**, as amended by PL 1985, c.
32 348, §2, is further amended by amending sub-¶(1-A) to read:

34 (1-A) Any payment on account of sickness or accident
36 disability, or medical or hospitalization expenses in
38 connection with sickness or accident disability, made by an
40 employer or a 3rd party to, or on behalf of, an employee
after the expiration of 6 calendar months following the last
calendar month in which the employee worked for that
employer;

42 **Sec. 4. 26 MRSA §1051, sub-§5**, as amended by PL 1983, c. 305,
44 §1, is further amended to read:

46 **5. Refusal to repay erroneous payments; waiver of**
48 **repayment.** If, after due notice, any person refuses to repay
50 amounts erroneously paid to him that person as unemployment
52 benefits, the amounts due from that person ~~shall--be~~ are
collectible in the manner provided in subsection 6 or in the
discretion of the ~~emmission~~ commissioner the amount erroneously
paid to such person may be deducted from any future benefits
payable to him that person under this chapter; provided that
there ~~shall-----be~~ is no recovery of payments

2 from any person who, in the judgment of at least 2 commission
4 members, is without fault ~~on-his-part~~ and where, in the judgment
6 of the commission, such recovery would defeat the purpose of
8 benefits otherwise authorized or would be against equity and good
conscience. No recovery may be attempted until the determination
of an erroneous payment is final as to law and fact and the
individual has been notified of the opportunity for a waiver
under this subsection.

10 **Sec. 5. 26 MRSA §1194, sub-§12**, as enacted by PL 1989, c. 691,
12 is amended to read:

14 **12. Collateral estoppel.** Except for proceedings under this
16 chapter, no finding of fact or conclusion of law contained in a
18 decision of a deputy, an administrative hearing officer, the
~~Unemployment-Insurance-Commission~~ commission, the commissioner or
a court, obtained under this chapter, has preclusive effect in
any other action or proceeding.

20 This provision applies to decisions issued on or after the
22 ~~effective-date-of-this-subsection~~ July 14, 1990.

24 **Sec. 6. 26 MRSA §1221, sub-§10, ¶A**, as amended by PL 1979, c.
651, §44, is further amended to read:

26 A. Any nonprofit organization ~~which~~ that becomes subject to
28 this chapter after January 1, 1972 may elect to become
30 liable for payments in lieu of contributions for a period of
32 2 calendar years beginning with the date on which such
34 subjectivity begins by filing a written notice of its
36 election with the bureau not later than 30 days immediately
38 following the date of determination of its subjectivity. Any
40 nonprofit organization or governmental entity subject to
42 this chapter on ~~and~~ or after January 1, 1978, may elect to
44 become liable for payments in lieu of contributions for a
46 period of not less than one calendar year beginning with the
date on which such subjectivity begins by filing a written
notice of its election with the bureau not later than 30
days immediately following the date of determination of its
subjectivity. Any nonprofit organization ~~which~~ or
~~governmental entity~~ that makes an election in accordance
with this paragraph will continue to be liable for payments
in lieu of contributions, until it files with the bureau a
written notice terminating its election not later than 30
days prior to the beginning of the calendar year for which
such termination shall is first be effective.

48 **Sec. 7. 26 MRSA §1221, sub-§11, ¶E**, as amended by PL 1975, c.
462, §5, is further amended to read:

2 E. Past-due payments of amounts in lieu of contributions
3 shall-be are subject to the same interest, penalties and
4 collection provisions that, pursuant to section 1225,
5 ~~subsection~~ subsections 3 and 4, sections 1229, 1230 and 1231
6 apply to past-due contributions.

8 **Sec. 8. 26 MRSA §1221, sub-§11, ¶F**, as amended by PL 1977,
9 c.694, §479, is further amended to read:

10 F. The ~~commission~~ commissioner shall promptly review and
11 reconsider the amount due specified in the assessment and
12 shall thereafter issue a redetermination in any case in
13 which such application for redetermination has been filed.
14 Any such redetermination shall-be is conclusive on the
15 employer or governmental entity unless the employer or
16 governmental entity files an appeal in accordance with Title
17 5, ~~section 11001-et-seq~~ chapter 375, subchapter VII.

20 **Sec. 9. 26 MRSA §1251, sub-§3, ¶A**, as amended by PL 1987, c.
21 131, is further amended to read:

22 A. Any hotel, motel, inn, variety store, trading post,
23 sporting camp or other lodging facility, including camps
24 operated for boys and girls, restaurants and other eating
25 establishments, which customarily conducts ~~its~~ operations
26 which that are primarily related to the production of ~~its~~
27 characteristic goods or services for a regularly recurring
28 period or periods of less than 26 weeks in any one calendar
29 year shall-be is deemed seasonal.

32

SUMMARY

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35 This bill clarifies references to the Commissioner of Labor
36 and makes several technical corrections to the employment
security laws.