

MAINE STATE LEGISLATURE

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126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1311

S.P. 454

In Senate, April 2, 2013

**An Act To Amend the Laws Governing Unemployment
Compensation To Ensure Conformity with the Federal Trade
Adjustment Assistance Extension Act of 2011**

Submitted by the Department of Labor pursuant to Joint Rule 204.
Reference to the Committee on Labor, Commerce, Research and Economic Development
suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.
Cosponsored by Representative VOLK of Scarborough and
Senator: CUSHING of Penobscot, Representatives: CAMPBELL of Newfield, GILBERT of
Jay, HAMANN of South Portland, LOCKMAN of Amherst, MASON of Topsham,
WINCHENBACH of Waldoboro.

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

2 **Sec. 1. 26 MRSA §1192, sub-§2**, as amended by PL 2011, c. 645, §2, is further
3 amended to read:

4 **2. Has registered for work.** The individual has registered for work at, and
5 continued to report at, an employment office in accordance with rules the commission
6 adopts, except that the commission may, by rule, waive or alter either or both of the
7 requirements of this subsection as to individuals attached to regular jobs and as to such
8 other types of cases or situations with respect to which the commission finds that
9 compliance with the requirements would be oppressive, or would be inconsistent with the
10 purposes of this chapter. A rule under this subsection may not conflict with section 1191,
11 subsection 1.

12 The individual must actively seek work each week in which a claim for benefits is filed
13 unless the individual is participating in approved training under subsection 6 or work
14 search has been waived in accordance with rules adopted by the commission and provide
15 evidence of work search efforts in a manner and form as prescribed by the ~~commission~~
16 Department of Labor. Failure to provide required work search documentation results in a
17 denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for
18 which no documentation was provided unless the ~~commission~~ department determines
19 there is good cause for the individual's failure to comply with this requirement;

20 **Sec. 2. 26 MRSA §1193, sub-§6**, as amended by PL 2011, c. 645, §9, is further
21 amended to read:

22 **6. Has falsified.** For any week for which the deputy finds that the claimant made a
23 false statement or representation knowing it to be false or knowingly failed to disclose a
24 material fact in the claimant's application to obtain benefits from any state or federal
25 unemployment compensation program administered by the bureau. In addition, for a first
26 or 2nd occurrence, the claimant is ineligible to receive any benefits for a period of not
27 less than 6 months nor more than one year from the mailing date of the determination,
28 and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for
29 the first occurrence and 75% for the 2nd occurrence. If an individual is disqualified for a
30 3rd occurrence of statement falsification or misrepresentation in an effort to obtain
31 benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained
32 and the claimant is disqualified from receiving benefits for a period of time to be
33 determined by the commissioner. Fifteen percent of these penalties assessed and
34 recovered must be directly deposited in the fund account;

35 **Sec. 3. 26 MRSA §1221, sub-§3, ¶E** is enacted to read:

36 E. An employer's experience rating record may not be relieved of charges relating to
37 an erroneous payment from the fund if the bureau determines that:

38 (1) The erroneous payment was made because the employer or agent of the
39 employer was at fault for failing to respond timely or adequately to a written or
40 electronic request from the bureau for information relating to the claim for
41 unemployment compensation; and

1 (2) The employer or agent of the employer has established a pattern of failing to
2 respond timely or adequately to written or electronic requests from the bureau for
3 information relating to claims for unemployment compensation.

4 A determination of the bureau not to relieve charges pursuant to this paragraph is
5 subject to appeal as other determinations of the bureau with respect to the charging of
6 employers' experience rating records.

7 **Sec. 4. 26 MRSA §1221, sub-§6, ¶Q** is enacted to read:

8 Q. "Erroneous payment" means a payment that would not have been made but for the
9 failure by the employer or agent of the employer to respond timely or adequately to a
10 written or electronic request from the bureau for information relating to a claim for
11 unemployment compensation.

12 **Sec. 5. 26 MRSA §1221, sub-§6, ¶R** is enacted to read:

13 R. "Pattern of failing" means repeated documented instances of failure on the part of
14 the employer or agent of the employer to respond timely or adequately to a written or
15 electronic request from the bureau for information relating to a claim for
16 unemployment compensation, taking into consideration the number of instances of
17 failure in relation to the total number of requests. An employer or agent of the
18 employer that fails to respond timely or adequately to a written or electronic request
19 from the bureau for information relating to a claim for unemployment compensation
20 may not be determined to have engaged in a pattern of failing if the number of
21 instances of failure during the year prior to a request is fewer than 2 or less than 2%
22 of requests, whichever is greater.

23 **Sec. 6. Application.** That section of this Act that enacts the Maine Revised
24 Statutes, Title 26, section 1221, subsection 3, paragraph E applies to determinations of
25 erroneous payments made after October 21, 2013.

26 **SUMMARY**

27 This bill amends the laws governing unemployment compensation to ensure
28 conformity with the federal Trade Adjustment Assistance Extension Act of 2011, Public
29 Law 112-40, 125 Stat. 401. It provides that 15% of a penalty assessment paid due to
30 unemployment misrepresentation or fraud must be placed directly into the
31 Unemployment Compensation Fund. It also prohibits an employer from being relieved of
32 benefit charges for a benefit overpayment that was due to the fault of the employer or
33 agent of the employer if that employer or agent of the employer has established a pattern
34 of failing to provide timely or adequately requested information pertaining to an
35 unemployment benefit claim. Additionally, this bill corrects reference errors in the laws
36 governing unemployment compensation to accurately identify the Department of Labor
37 as the entity that prescribes how and in what form an individual reports on that
38 individual's work search, and as the entity that determines whether good cause exists for
39 an individual's failure to comply with the work search requirement.