

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2018

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Legislative Document

No. 1927

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S.P. 763

In Senate, September 13, 2018

### **An Act To Restore the Integrity of the Unemployment Compensation System**

(EMERGENCY)

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin. (GOVERNOR'S BILL)

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** the integrity of the unemployment compensation system has been  
4 grievously eroded by the recent enactment of Public Law 2017, chapter 453; and

5           **Whereas,** as a result of this recently enacted law, Maine businesses will be forced to  
6 pay oppressive, higher taxes in order to stabilize the State's account in the federal  
7 Unemployment Trust Fund; and

8           **Whereas,** immediate legislative action is necessary to eliminate the negative  
9 consequences of Public Law 2017, chapter 453; and

10           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
11 the meaning of the Constitution of Maine and require the following legislation as  
12 immediately necessary for the preservation of the public peace, health and safety; now,  
13 therefore,

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

15           **Sec. 1. 26 MRSA §1192, sub-§3,** as amended by PL 2017, c. 453, §1, is further  
16 amended to read:

17           **3. Is able and available for work.** The individual is able to work and is available  
18 for full-time work at the individual's usual or customary trade, occupation, profession or  
19 business or in such other trade, occupation, profession or business for which the  
20 individual's prior training or experience shows the individual to be fitted or qualified,~~as~~  
21 ~~long as the geographic region in which the work will take place is not greater than 35~~  
22 ~~miles from the individual's primary residence;~~ and in addition to having complied with  
23 subsection 2 is actively seeking work in accordance with the regulations of the  
24 commission; provided that no ineligibility may be found solely because the claimant is  
25 unable to accept employment on a shift, the greater part of which falls between the hours  
26 of midnight to 5 a.m., and is unavailable for that employment because of parental  
27 obligation, the need to care for an immediate family member or the unavailability of a  
28 personal care attendant required to assist the unemployed individual who is a  
29 handicapped person; and provided that an unemployed individual who is neither able nor  
30 available for work due to good cause as determined by the deputy is eligible to receive  
31 prorated benefits for that portion of the week during which the individual was able and  
32 available.

33           A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is  
34 not available for full-time work as required in this subsection is not disqualified from  
35 receiving benefits if:

36           (1) The individual worked less than full time for a majority of the weeks during  
37 that individual's base period and the individual is able and available for and  
38 actively seeking part-time work for at least the number of hours in a week  
39 comparable to those customarily worked in part-time employment during that  
40 individual's base period; or

1 (2) The individual worked full time for a majority of the weeks during that  
2 individual's base period, but is able and available for and actively seeking only  
3 part-time work because of the illness or disability of an immediate family  
4 member or because of limitations necessary for the safety or protection of the  
5 individual or individual's immediate family member.

6 **Sec. 2. 26 MRSA §1192, sub-§12**, as amended by PL 2017, c. 453, §2, is further  
7 amended to read:

8 **12. Participation in reemployment services.** The individual who has been referred  
9 to reemployment services, pursuant to a profiling system established by the  
10 commissioner, participates in those services or similar services unless it is determined  
11 that the individual has completed those services or there is good cause for the individual's  
12 failure to participate; and

13 **Sec. 3. 26 MRSA §1192, sub-§13**, as amended by PL 2017, c. 453, §3, is further  
14 amended to read:

15 **13. Reemployment services and eligibility assessment; participation.** In the case  
16 that the individual has been referred to reemployment services and eligibility assessment  
17 by the Department of Labor, the individual participates in those services, unless the  
18 department determines there is good cause for the individual's failure to participate.  
19 Failure to participate in reemployment services and eligibility assessment without good  
20 cause results in a denial of benefits until the individual participates; ~~and~~.

21 **Sec. 4. 26 MRSA §1192, sub-§14**, as enacted by PL 2017, c. 453, §4, is repealed.

22 **Sec. 5. 26 MRSA §1192, last ¶**, as amended by PL 2017, c. 453, §5, is further  
23 amended to read:

24 For purposes of subsections 2, 3, 12 and 13, "good cause" means the unemployed  
25 individual is ill; the presence of the unemployed individual is required due to an illness of  
26 the unemployed individual's spouse, children, parents, stepparents, brothers or sisters, or  
27 relatives who have been acting in the capacity of a parent of either the unemployed  
28 individual or the unemployed individual's spouse; the unemployed individual is in  
29 attendance at the funeral of such a relative; the unemployed individual is observing a  
30 religious holiday as required by religious conviction; the unemployed individual is  
31 performing either a military or civil duty as required by law; or other cause of a  
32 necessitous and compelling nature, including child care emergencies and transportation  
33 emergencies. ~~If an unemployed individual has completed reemployment services and~~  
34 ~~eligibility assessment with the Department of Labor within the prior 5 years, that~~  
35 ~~individual is considered to have good cause for not participating in reemployment~~  
36 ~~services and eligibility assessment under subsections 12 and 13.~~ "Good cause" does not  
37 include incarceration as a result of a conviction for a felony or misdemeanor.

38 **Sec. 6. PL 2017, c. 453, §6** is repealed.

39 **Sec. 7. Appropriations and allocations.** The following appropriations and  
40 allocations are made.

