

MAINE STATE LEGISLATURE

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N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 596

H. P. 1131

House of Representatives, February 17, 1943.

Referred to Committee on Labor. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Snow of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Amending the Unemployment Compensation Law.

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

Sec. 1. P. L. 1935, c. 192, § 5, sub-§ (f), amended. Sub-section (f) of section 5 of chapter 192 of the public laws of 1935, as enacted by chapter 115 of the public laws of 1941 is hereby repealed and the following enacted in place thereof:

‘(f) For any week for which the examiner finds that the claimant made a wilful misrepresentation in his application to obtain benefits to which he would otherwise not be entitled, then and in that event, the examiner shall notify the claimant of the examiner’s findings, whereupon the claimant shall have the right to a hearing, appeal, or review by the commission and appeal to the courts, as is provided by other provisions of this law.

If a hearing is not requested by the claimant, or an appeal taken therefrom, then the decision of the examiner shall become final 5 days after personal notice thereof to the claimant, or 7 days after date of mailing notice thereof to the claimant, and the claimant’s maximum benefit amount shall be reduced by an amount equivalent to the number of such weeks of disqualification times his weekly benefit amount.’

Sec. 2. P. L. 1935, c. 192, § 6, sub-§ (b), amended. Sub-section (b) of section 6 of chapter 192 of the public laws of 1935 is hereby repealed and the following enacted in place thereof:

‘(b) Determination. A representative designated by the commission, and hereinafter referred to as a deputy, shall promptly examine the first claim filed by a claimant in each benefit year and shall determine the weekly benefit amount and maximum benefit amount potentially payable to the claimant during such benefit year in accordance with the provisions of sub-section (e) of section 4 of this act.

The deputy shall promptly examine all subsequent claims filed and, on the basis of the facts found by him, shall determine whether or not such claim is valid with respect to the provisions of sections 4 and 5 of this act, other than sub-section (e) of section 4, or shall refer such claim or any question involved therein to an appeal tribunal or to the commission, which shall make a determination with respect thereto in accordance with the procedure described in sub-section (c) of this section, except that in any case in which the payment or denial of benefits will be subject to the provisions of sub-section (d) of section 5 of this act, the deputy shall promptly transmit his full finding of fact with respect to that sub-section to the commission, which on the basis of the evidence submitted and such additional evidence as it may require, shall affirm, modify, or set aside such findings of fact and transmit to the deputy a decision upon the issues involved under that sub-section.

The deputy shall promptly notify the claimant and any other interested party of the determinations and reasons therefor. Unless the claimant or any such interested party, within 5 calendar days after the delivery of such notification or within 7 calendar days after such notification was mailed to his last known address, files an appeal from such determination, such determination shall be final and benefits shall be paid or denied in accordance therewith. If an appeal is duly filed, benefits with respect to the period prior to the final determination of the commission, shall be paid only after such determination; provided, that if an appeal tribunal affirms a determination of a deputy, or the commission affirms a determination of an appeal tribunal, allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken, but if such determination is finally reversed, no employer's account shall be charged with benefits so paid; provided further, if the claimant's appeal relates to the weekly benefit amount or maximum benefit amount potentially payable to him in the benefit year, benefits may nevertheless be paid to the extent of the deputy's determination and prior to the final determination of the commission.’

Sec. 3. P. L. 1935, c., 192, §9, sub-§ (b), amended. The 2nd paragraph of sub-section (b) of section 9 of chapter 192 of the public laws of 1935, as amended, is hereby further amended to read as follow :

‘Except as herein otherwise provided, moneys in the clearing and benefits accounts may be deposited by the treasurer, under the direction of the commission, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. ~~The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the commission and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund.~~’

Sec. 4. P. L. 1935, c. 192, § 11, sub-§ (h), amended. Sub-section (h) of section 11 of chapter 192 of the public laws of 1935, as amended, is hereby further amended by adding at the end thereof the following paragraphs:

‘In the discharge of the duties imposed by the act, the commission, the chairman of an appeal tribunal, or any duly authorized representative of either of them, when the interests of any interested party demand, may issue commissions to take depositions to any unemployment compensation official empowered to take such depositions under this act or the laws of any other state, for either of the following causes: (1) when the deponent resides out of, or is absent from, the state; (2) when the deponent is bound to sea, or is about to go out of the state; or (3) when the deponent is so aged, infirm, or sick as to be unable to attend at the place of hearing.

Such depositions shall be taken by written interrogatories to be compiled by the commission or the appeal tribunal, and the adverse party shall be afforded an opportunity to refute such testimony before a determination is made. The deponent shall be sworn and the deposition shall be signed and sworn to by the deponent before admissible as testimony at a hearing before the appeal tribunal or the commission.

The form or subpoena to be used to subpoena witnesses shall be the same as used in the courts of the state and the same rule shall apply to the form of subpoena duces tecum.’

Sec. 5. P. L. 1935, c. 192, § 11, amended. Section 11 of chapter 192 of the public laws of 1935, as amended, is hereby further amended by adding thereto a new sub-section to be lettered (m) and to read as follows:

‘(m) Rules for filing pay-roll reports; penalty. The commission may prescribe rules for the filing of pay-roll reports from the employing units in the state and the failure on the part of any employing unit to file the

pay-roll reports within the time stated by the rule of the commission shall render the employing unit liable to a penalty of \$5 a day for each calendar day thereafter until the pay-roll report is filed.'

Sec. 6. P. L. 1935, c. 192, § 13, sub-§ (a), amended. Sub-section (a) of section 13 of chapter 192 of the public laws of 1935, as amended by section 6 of chapter 274 of the public laws of 1939, is hereby repealed and the following enacted in place thereof:

'(a) **Special fund.** There is hereby created in the state treasury a special fund to be known as the unemployment compensation administration fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the commission. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this state, and all moneys received from the United States of America, or any agency thereof, including the social security board, railroad retirement board and the United States employment service, or from any other source, for such purpose. Moneys received from the railroad retirement board as compensation for services or facilities supplied to said board shall be paid into this fund and the employment service account thereof, on the same basis as expenditures are made for such services or facilities from such fund and account. All moneys in this fund shall be deposited, administered and disbursed, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. Any balances in this fund shall not lapse at any time, but shall be continuously available to the commission for expenditure consistent with this act.'

Sec. 7. P. L. 1935, c. 192, § 19, sub-§ (a), paragraph (1), amended. Paragraph (1) of sub-section (a) of section 19 of chapter 192 of the public laws of 1935, as amended by section 4 of chapter 141 of the public laws of 1941, is hereby further amended to read as follows:

'(a) (1) "Annual pay-roll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year; except that, for calendar years after December 31, 1940, "annual pay-roll" means the total amount of wages paid by an employer during a calendar year, **not meaning, however, to include that part of individual wages or salaries in excess of \$3,000 in any calendar year.**'

Sec. 8. P. L. 1935, c. 192, § 19, sub-§ (a), paragraph (2), repealed. Paragraph (2) of sub-section (a) of section 19 of chapter 192 of the public laws of 1935 is hereby repealed.