

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. 698

H. P. 1211 House of Representatives, February 23, 1943.
Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Pierce of Bucksport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Relating to Maine Cash Sickness Compensation.

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

Sec. 1. Title. This act shall be known as and may be cited as the "Maine Cash Sickness Compensation Act."

Sec. 2. Definitions. The following words and phrases, as used in this act, shall have the following meanings unless the context clearly requires otherwise:

(1) "Benefit" means the money payable as provided in this act to an individual as compensation for his wage losses due to unemployment caused by sickness.

(2) "Board" means the Maine unemployment compensation commission, or its authorized representative.

(3) "Contributions" means the money payments required by this act to be made to the Maine cash sickness compensation fund.

(4) "Employee" means any person who is or has been employed by an employer subject to this act and in employment subject to this act.

(5) "Employer" means any employing unit which is an employer under the unemployment compensation act, as amended.

(6) "Employing unit" is hereby declared to have the same meaning as contained in the unemployment compensation act, as amended.

(7) "Employment" is hereby declared to have the same definition as contained in the unemployment compensation act, as amended.

(8) "Employment office" is hereby declared to have the same definition as contained in the unemployment compensation act, as amended.

(9) "Benefit rate" means the money payable to an individual as compensation, as provided in this act, for his wage losses with respect to any week during which his unemployment is caused by sickness.

(10) "Base period" is hereby declared to have the same definition as contained in the unemployment compensation act, as amended.

(11) "Fund" means the Maine cash sickness compensation fund established by this act.

(12) "Benefit year" is hereby declared to have the same definition as contained in the unemployment compensation act, as amended.

(13) "Sickness." An individual shall be deemed to be sick in any week in which, because of his physical or mental condition, he is unable to perform any services for wages.

(14) "Wages" is hereby declared to have the same definition as contained in the Unemployment Compensation Act, as amended.

(15) "Services" means with respect to subsection (13) of this section, all endeavors undertaken by an individual which are paid for by another or with respect to which the individual performing the services expects to receive wages or profits.

(16) "Week" is hereby declared to have the same definition as contained in the Unemployment Compensation Act, as amended.

(17) "Calendar quarter" is hereby declared to have the same definition as contained in the Unemployment Compensation Act, as amended.

(18) "Benefit credits" means the total amount of money payable to an individual as benefits, as provided in subsection (2) of section 5 of this act.

Sec. 3. Maine cash sickness compensation fund. (1) Fund. There is hereby created the Maine cash sickness compensation fund, to be administered by the board without liability on the part of the state beyond the amounts paid into and earned by the fund. This fund shall consist of all contributions, of interest and penalties paid pursuant to sections 4 and 12 of this act, and of all other moneys paid into and received by the fund, of property and securities acquired by and through the use of moneys belonging to the fund, and of interest earned upon moneys belonging to the fund. All moneys in the fund shall be mingled and undivided.

(2) **Withdrawals.** The fund shall be administered and used solely to pay benefits upon vouchers drawn on the fund by the board pursuant to regulations of the board, and no other disbursement shall be made therefrom except as provided in subsection (3) of section 4 and section 15 of this act. Such regulations shall be governed by and be consistent with any applicable constitutional requirements, but the procedure prescribed by such rules shall be deemed to satisfy and shall be in lieu of any and all statutory requirements for specific appropriation or other formal release by state officers of the state moneys prior to their expenditure which might otherwise be applicable to withdrawals from the fund.

(3) **Treasurer.** The general treasurer of the state of Maine shall be custodian of the fund and shall pay all vouchers duly drawn upon the fund, in such manner as the board may prescribe. He shall have custody of all moneys belonging to the fund and not otherwise held or deposited or invested pursuant to this act. The general treasurer shall give bond conditioned on the faithful performance of his duties as custodian of the fund, in a form prescribed by statute and approved by the attorney general, and in an amount specified by the board and approved by the governor. All premiums upon bonds required pursuant to this section when furnished by an authorized surety company or by a duly constituted governmental bonding fund shall be paid by the state from funds made available for that purpose by the legislature. The general treasurer shall deposit the moneys in his custody under supervision and control of the board, subject to the provisions of this act.

Sec. 4. Contributions. (1) Payment. Each employee shall contribute to the Maine cash sickness compensation fund with respect to employment after June 30, 1943, or after the date upon which his employer becomes subject to this act, whichever is later, an amount equal to 1% of his wages paid by his employer up to \$3,000 in any calendar year. Such contributions shall be collected and paid in such manner and at such times and under

such conditions as may be prescribed by the board. Each employer shall be responsible for withholding such contributions from the wages of his employees at the time such wages are earned or paid, shall show such deductions on his payroll records, shall furnish to his employees such evidence thereof as the board may prescribe, and shall transmit all such contributions to the fund pursuant to regulations of the board.

If any employer fails to deduct the contributions of any of his employees at the time their wages are paid or fails to make a deduction thereof at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, and, for the purposes of sections 11 and 12 of this act, such contributions shall be treated as employers' contributions required from him.

(2) **Adjustments.** If more or less than the correct amount of contributions imposed under subsection (1) of this section is paid with respect to any wage payments, then, under regulations prescribed by the board, proper adjustments with respect to the contributions shall be made, without interest in computing contributions next due and payable after discovery of such error with respect to the next subsequent wage payment by the same employer. If more or less than the correct amount of contributions imposed under subsection (1) of this section is paid with respect to any wage payment, then, under regulations prescribed by the board, proper adjustments with respect to both the contributions and the amount to be deducted, shall be made, without interest, in connection with the next wage payment to the same employee by the same employer.

(3) **Refunds and deficiency.** If heretofore or hereafter contributions were or are erroneously collected, or if more or less than the correct amount of contributions imposed under subsection (1) of this section, has been paid or deducted with respect to any wage payment, and the erroneous collection or overpayment or underpayment of contributions cannot be or is not adjusted under subsection (2) of this section, the board shall determine the amount of erroneous collection or overpayment, and shall, by voucher duly drawn by the board in an amount and in such manner as the board may prescribe, direct the general treasurer to pay the amount determined to be erroneously collected or overpaid from the Maine cash sickness compensation fund, and the amount of the underpayment shall be collected in the manner provided in subsection (4) of section 11 of this act.

(4) **Right of appeal.** Any employer or any employee aggrieved by any decision of fact or law by the board as to the amount of contributions due from him under this act, or by any refusal of the board to grant a refund

under the provisions of subsection (3) of this section, or any employer aggrieved by any determination by the board as to the amount of any contributions due from any of his employees which are to be withheld and paid by such employer under this act, may, after the exhaustion of other remedies provided in this act, either on behalf of himself or on behalf of any of his employees, or on behalf of both himself and such employees, appeal therefrom to the superior court for the county in which the employer's place of business is located, or to the superior court for the county in which such petitioner resides, or in which is located the principal place of business of such petitioner by filing within 30 days from the date of the notice to him of such decision by the board, a petition in said court stating the grounds upon which the appeal is taken. Upon filing of such petition, the court shall cause 20 days' notice of the pendency thereof to be given to the board by serving a member thereof in the manner in which subpoenas in equity are served with a certified copy of such petition, and such petition shall follow the course of equity so far as the same is applicable; and the court shall proceed to hear such petition and determine whether the action of the board appealed from is correct, and may affirm, or overrule, or modify such action, and the taking of such appeal shall, during the pendency thereof, operate as a stay of the order from which such appeal is taken.

(5) **Duration of liability.** Any employing unit which is or becomes an employer subject of this act within the calendar year 1943, or within any calendar year thereafter, the employees of such employing unit shall become subject to all the provisions of this act from the date upon which such employing unit became an employer subject to the provisions of this act.

Sec. 5. Benefits. (1) Payment of benefits. (a) On and after April 1, 1944, benefits shall become payable from the fund and shall be paid by the board through employment offices, or such other agencies as the board may designate, and the federal social security board may approve, in accordance with such regulations as the board may prescribe.

(b) Notwithstanding any provisions of this law to the contrary, the term "wages" as used in the phrase "wages for employment from employers" shall mean, with reference to the benefit provisions of this act, only such wages which are paid subsequent to the date upon which the employing unit, by whom such wages were paid, had satisfied the conditions of section 2 (5) with respect to becoming an employer subject to this act; provided, that notwithstanding any provision of section 2 (15) limiting

wages to \$3,000 remuneration paid for employment by an employer or employers in a calendar year, the term "wages" if limited by this paragraph shall include all remuneration (not exceeding \$3,000) paid to the individual by an employer or employers from the time that such employer or employers have satisfied such conditions to the end of the calendar year.

(2) **Benefit credits.** The total amount of benefit credits to which classes of eligible individuals shall be entitled by reason of wages paid to them during a base period for employment from employers shall be determined by the following table. Column I of that table hereby establishes the minimum and maximum dollar limits of classified total amounts of wages for employment paid by employers to such individuals during the base period immediately preceding the benefit year with respect to which benefits become payable. The total amount of benefit credits to which such individuals shall be entitled during such benefit year shall be the amount appearing in column II on the line with and directly opposite the classified total amount of wages appearing in column I.

TABLE A. CLASSIFIED WAGES AND TOTAL BENEFIT CREDITS WITH RESPECT THERETO

Column I Base Period Wages Paid for Employment	Column II Total Benefit Credits	Column I Base Period Wages Paid for Employment	Column II Total Benefit Credits
Under \$100		\$475.00-\$499.99	\$104.25
\$100.00- 124.99	\$ 34.00	500.00- 524.99	109.75
125.00- 149.99	38.50	525.00- 549.99	114.75
150.00- 174.99	42.00	550.00- 574.99	117.75
175.00- 199.99	45.25	575.00- 599.99	121.00
200.00- 224.99	48.75	600.00- 624.99	124.00
225.00- 249.99	53.50	625.00- 649.99	129.00
250.00- 274.99	59.00	650.00- 674.99	134.25
275.00- 299.99	64.75	675.00- 699.99	139.25
300.00- 324.99	70.25	700.00- 724.99	144.25
325.00- 349.99	76.00	725.00- 749.99	149.25
350.00- 374.99	81.50	750.00- 774.99	154.50
375.00- 399.99	87.25	775.00- 799.99	159.50
400.00- 424.99	90.50	800.00- 824.99	164.50
425.00- 449.00	93.75	825.00- 849.99	169.50
450.00- 474.99	99.00	850.00- 974.99	174.75

Column I Base Period Wages Paid for Employment		Column II Total Benefit Credits	Column I Base Period Wages Paid for Employment		Column II Total Benefit Credits
\$ 875.00-	899.99	\$179.75	\$1,350.00-	1,374.99	\$276.00
900.00-	924.99	184.75	1,375.00-	1,399.99	281.00
925.00-	949.99	189.75	1,400.00-	1,424.99	286.00
950.00-	974.99	195.00	1,425.00-	1,449.99	291.00
975.00-	999.99	200.00	1,450.00-	1,474.99	296.25
1,000.00-	1,024.99	205.00	1,475.00-	1,499.99	301.25
1,025.00-	1,049.99	210.00	1,500.00-	1,524.99	306.25
1,050.00-	1,074.99	215.25	1,525.00-	1,549.99	311.25
1,075.00-	1,099.99	220.25	1,550.00-	1,574.99	316.50
1,100.00-	1,124.99	225.25	1,575.00-	1,599.99	321.50
1,125.00-	1,149.99	230.25	1,600.00-	1,624.99	326.50
1,150.00-	1,174.99	235.50	1,625.00-	1,649.99	331.50
1,175.00-	1,199.99	240.50	1,650.00-	1,674.99	336.75
1,200.00-	1,224.99	245.50	1,675.00-	1,699.99	341.75
1,225.00-	1,249.99	250.50	1,700.00-	1,724.99	346.75
1,250.00-	1,274.99	255.75	1,725.00-	1,749.99	351.75
1,275.00-	1,299.99	260.75	1,750.00-	1,774.99	357.00
1,300.00-	1,324.99	265.75	1,775.00-	1,799.99	362.00
1,325.00-	1,349.99	270.75	1,800.00 and over		364.50

(3) **Weekly benefit rates for sickness.** The benefit rate payable under this act to classes of eligible individuals with respect to any week of their sickness, when such week occurs within a benefit year, shall be determined by the following table. Column I of that table hereby establishes the minimum and maximum dollar limits of classified total amounts of highest quarterly wages for employment paid to such individuals by employers during the base period immediately preceding the benefit year with respect to which benefits become payable. The benefit rate to which such individuals shall be entitled during any week of their sickness is the amount appearing in column II on a line with and directly opposite the classified total amounts of highest quarterly wages paid to such individuals by employers during such base period for employment.

TABLE B. CLASSIFIED HIGHEST QUARTERLY WAGES AND BENEFIT RATES WITH RESPECT THERETO

Column I Highest Quarterly Wages	Column II Benefit Rate	Column I Highest Quarterly Wages	Column II Benefit Rate
\$ 25.00-\$ 54.99	\$6.75	\$205.00-\$214.99	\$11.00
55.00- 84.99	7.00	215.00- 224.99	11.50
85.00- 104.99	7.25	225.00- 234.99	12.00
105.00- 114.99	7.50	235.00- 244.99	12.00
115.00- 124.99	7.75	245.00- 254.99	13.00
125.00- 134.99	8.00	255.00- 264.99	13.50
135.00- 144.99	8.25	265.00- 274.99	14.25
145.00- 154.99	8.50	275.00- 284.99	15.00
155.00- 164.99	8.75	285.00- 294.99	15.75
165.00- 174.99	9.00	295.00- 304.99	16.50
175.00- 184.99	9.50	305.00- 314.99	17.25
185.00- 194.99	10.00	315.00 and over	18.00
195.00- 204.99	10.50		

(4) **Duration of benefits.** The maximum total amount of benefits payable under this act to any eligible individual during any benefit year shall be the total amount of benefit credits available to such individual, as determined in accordance with subsection (2) of this section.

(5) **Unpaid wages.** Wages earned by an employee for employment from employers which remain unpaid because the assets of the employer for whom such employment was rendered are in the custody or control of an assignee for the benefit of creditors, receiver, trustee or any other fiduciary appointed by or under the control of a court of competent jurisdiction, shall, for all purposes of subsections (1), (2) and (3) of this section and of subsection (1) of section 6, be deemed to be, and shall be treated as though such wages had been paid to such employee during the calendar year within which such wages were earned.

Sec. 6. Benefit eligibility conditions. An individual shall be deemed eligible for benefits for any given week of his unemployment due to sickness only if he has, within the base period immediately preceding the benefit year in which such week of sickness occurs, been paid wages for employment from employers of not less than \$100, and has complied with all regulations of the board with respect to his claim for benefits.

(2) **Waiting period.** Benefits shall be payable to any eligible individual only for his weeks of sickness occurring subsequent to one waiting period with respect to any benefit year; provided, that this requirement shall not interrupt the payment of benefits for consecutive weeks of sickness.

The waiting period of any individual shall be 1 week.

There shall not be counted toward an individual's required waiting period any week:

(a) with respect to which he has or will be paid benefits under the unemployment compensation act of this or any other state;

(b) unless such week occurs within the benefit year which includes the week with respect to which he claims benefits or unless it occurs within the four consecutive weeks immediately preceding such benefit year.

(3) **Receipt of remuneration.** An individual shall be disqualified from receiving benefits during any week with respect to which he will receive remuneration in the form of—

(a) Compensation for temporary partial disability under workmen's compensation law of any state or under a similar law of the United States; or

(b) Primary insurance benefits under title II of the Federal social security act, as amended, or similar payments under any act of congress; or

(c) Benefits under an unemployment compensation law of any state or of the United States;

Provided, that if the remuneration designated in (a) or (b) is less than the benefits which would otherwise be due under this act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

Sec. 7. Settlement of benefit claims. (1) **Filing.** Benefit claims shall be filed pursuant to regulations of the board at an employment office or such other agency as the board may designate.

Claims for benefits shall be made in accordance with such regulations as the board may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes employed, a printed statement of such regulations. Such printed statement shall be supplied by the board to each employer without cost to him.

(2) **Initial determination.** (a) Upon the filing of such claim a claims examiner shall promptly examine the claim and on the basis of facts found by him and records maintained by the board, the claim shall be determined to be valid or invalid. If the claim is determined to be valid, the claims examiner shall promptly notify the claimant as to the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof. If the claim is determined to be invalid, the claims examiner shall likewise notify the claimant and any other interested parties of such determination and the reasons therefor. Unless the claimant or other interested party shall, within seven days after notification by the claims examiner has been mailed to his last known address, as provided in this subsection, request a hearing before a referee, the determination with reference to the claim shall be final.

If an appeal is duly filed, benefits with respect to the period prior to the final decision of the board, if it is found that such benefits are payable, shall be paid only after such decision; provided, that if a referee affirms a decision of a claims examiner, or the board affirms a decision of a referee allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken.

(3) **Appeal tribunals.** To hear and decide disputed claims, the board shall appoint one or more impartial referees who shall serve at the pleasure of the board and be paid a salary fixed by the board. No person shall participate on behalf of the board in any case in which he is an interested party.

(4) **Appeals.** Unless the request for a hearing before a referee is withdrawn, a referee, after affording the parties reasonable opportunity for a fair hearing, shall affirm or modify the findings of fact of the claims examiner and the decision on the claim. The claimant and any other interested parties shall be duly notified of such referee's decision, together with the reasons therefor and such decisions shall be deemed to be the final decision of the board, unless the claimant or other interested party shall, within 10 days after notification of such decision of the referee has been mailed to the claimant or other interested party to his last known address, initiate an appeal to the board pursuant to subsection (5) of this section.

(5) **Appeal to the unemployment compensation board.** The board may permit any of the parties to such decision to initiate further appeals before it. The board shall permit such further appeal by a claims examiner or by any of the parties interested in a decision of a referee, if such decision has overruled or modified the findings of a claims examiner, or a previous de-

cision on the same claim. The board may, after such reasonable notice to the parties as it may by regulation prescribe and an opportunity for hearing, on its own motion affirm, modify, or set aside any decision of a referee on the basis of evidence previously submitted in such case, or direct the taking of additional evidence. The board may remove to itself or transfer to another referee the proceedings on any claim pending before a referee. Any proceeding so removed to the board shall, after the parties have been afforded a reasonable opportunity for a fair hearing, be heard by the full board, or if this is impossible within the time limits prescribed by this act, such hearing shall be before the public representative alone. The board shall promptly notify the interested parties of its findings and decisions. A request by any interested party for further appeal, as provided in this subsection, in the manner prescribed by the rules of the board, shall be deemed to exhaust the administrative remedies referred to in section 9 (8) of this act; and a refusal by the board to permit further appeal, and written notice thereof, shall be deemed a final decision of the board from which appeal may be taken to the courts.

(6) Official making determinations. Any duties to be performed by a claims examiner, by reason of the provisions of this section, may be performed by any other official designated by the board to perform such duties.

Sec. 8. Court review. Any party in interest who desires to take an appeal to the court upon denial or non-payment of his claim for benefits shall have available to him all the provisions of paragraph (h) of section 6 of the Maine unemployment law, as amended.

Sec. 9. Administration. (1) **Powers and duties.** This act shall be administered by the Maine unemployment compensation board. The board shall have the same powers and duties with relation to this act as it has to the unemployment compensation act.

(2) **Physical and mental examination.** The board is empowered to require by regulation or special order any benefit claimant to submit to a reasonable examination or examinations for the purpose of determining his physical or mental condition, such examination or examinations to be conducted by an expert or experts appointed by the board, and to be made at such times and at such places as said experts, with the approval of the board, require.

(3) **Representation in court.** On request of the board the attorney general shall represent the board and the state in any court action relating

to this act or its administration and enforcement, except as special counsel may be designated by the board with the approval of the governor and except as otherwise provided in this act.

(4) **Records and reports.** Every employer and every employing unit employing any person in employment in this state shall keep true and accurate employment records of all persons employed by him, and of the weekly hours worked for him by each, and of the weekly wages paid by him to each such person; and every employer and employing unit shall keep records containing such other information as the board may, by regulation, prescribe. Such records shall at all times be available within this state and shall be open to inspection by the board or its authorized representatives at any reasonable time and as often as the board shall deem necessary. The board may require from any employer, or employing unit, employing any person in this state, any reports covering persons employed by him, on employment, wages, hours, unemployment and related matters which the board deems necessary to the effective administration of this act.

(5) **Procedure.** The manner in which any disputed claims or any other controversies arising out of the interpretation or application of this act shall be presented, or the manner in which hearings and appeals are conducted, shall be in accordance with the regulations prescribed by the board, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(6) **Subpoenas.** In case of contumacy by, or refusal to obey a subpoena issued to, any person, pursuant to this section, to superior court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which such person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the board shall have jurisdiction to issue to such person an order, requiring such person to appear before the board or such representatives of the board as it may designate, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(7) **Witness fees.** No witness shall be entitled to fees for attendance, pursuant to the provisions of this section, and the board shall not be re-

quired to pay any fees to the superior court or district courts or the clerks thereof, or any fees or charges for the service or travel of sheriffs or deputy sheriffs for serving any writ, citation, subpoena or other process in any action arising out of this act to which this board is party.

(8) **Appeal to courts.** Any benefit claimant aggrieved by any decision of the board may, within 10 days, take an appeal therefrom in the manner provided in section 8 of this act.

Sec. 10. Protection of rights and benefits. (1) Waiver of rights void. No agreement by any individual to waive his right to benefits or any other right under this chapter shall be valid. No agreement by any individual in the employ of any person or concern to pay all or any portion of the contributions required under this act from employers shall be valid. No employer shall make or require or accept any deduction from wages to finance the contributions required of him, or require or accept any waiver by an individual of any right hereunder. The board shall have power to take any steps necessary or suitable under this act to correct or prosecute any such violation.

(2) **Limitation of fees.** No individual claiming benefits shall be charged fees of any kind by the board or its representatives in any proceeding under this act. Any individual claiming benefits in any proceeding or court action may be represented by counsel or other duly authorized agent; the board shall have the authority to fix the fees of such counsel or other duly authorized agent but no such counsel or agent shall together be allowed to charge or receive for such services more than 10% of the maximum benefits at issue in such proceeding or court action except as specifically allowed by the superior court.

(3) **No assignment or garnishment of benefits.** Benefits which are due or may become due under this act, shall not be assigned, pledged or encumbered before payment; and when awarded, adjudged, or paid, so long as they are not mingled with other funds of the recipient, shall be exempt from all claims of creditors, and from levy, execution, and attachment or other remedy now or hereafter provided for recovery or collection of debt, which exemption may not be waived.

Sec. 11. Collection of contributions. (1) Interest on tardy payments. If any employer fails to make promptly, by the date it becomes due hereunder, any payment required to be made by him under this act, he shall be additionally liable to the fund for interest on such payment at the rate of 1% per month from the date such payment became due until paid, pursuant to board regulations.

(2) **Priorities under legal dissolutions or distributions.** In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding, the amount of contribution payments then or thereafter due shall be deemed to have been held by such an employer in trust for his employees and shall be first paid in full out of any assets of the employer distributed under the supervision of any court of this state.

(3) **Determination of unreported contributions.** If an employer for any reporting period fails to make any report used for the purpose of determining the amount of contributions payable under this act at the time and in the manner required by the rules and regulations of the board, or if such reports when filed are incorrect or insufficient, and the employer fails to file a corrected or sufficient report within 20 days after the board shall have required the same by written notice, the board shall determine on the basis of such information as the board may be able to obtain, the amount of contributions due from such an employer, and the board shall give written notice to any such employer of the amount of contributions so determined. Such determination shall finally and irrevocably fix the amount of contributions due unless the employer shall, within 20 days after the giving of such notice, apply to the board for a hearing, or unless the board on its own volition reduces the same.

(4) **Civil actions.** If any employer fails to make any payment of contributions or interest thereon at the time and in the manner required by the rules and regulations of the board, the amount of contributions so due shall be collected by civil action. All such civil actions shall be instituted in the name of the board, and members of the board shall be exempt from giving any surety for costs. Civil actions brought under this subsection to collect contributions or interest thereon, shall be heard by the court having jurisdiction thereof at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for a judicial review under this act and cases arising under the workmen's compensation law of this state.

(5) **Representation in court.** In any civil action brought to enforce the provisions of this act, the board may be represented by any qualified attorney whom the board has designated and employed for this purpose, or at the board's request, by the attorney-general.

Sec. 12. Penalties. (1) Whoever knowingly makes a false statement or representation to obtain or increase any benefit or other payment under

this act, either for himself or for any other person, shall upon conviction be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment not longer than 30 days, or by both such fine and imprisonment; and each such false statement or representation shall constitute a separate and distinct offense.

(2) Any individual, employing unit, or its agent, who wilfully makes a false statement or representation to avoid becoming or remaining subject hereto, or to avoid or reduce any contribution or other payment required of an employing unit under this act, or who wilfully fails or refuses to appear or to testify or produce records as lawfully required hereunder, or who tries to induce any individual to waive any right under this act, shall upon conviction be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than 60 days, or by both such fine and imprisonment; and each such false statement or representation, and each day of such failure or refusal shall constitute a separate and distinct offense. If the employer in question is a corporation, every officer thereof who knowingly participates in any violation specified in this paragraph shall be subject to the aforesaid penalties.

(3) Any individual, employing unit, or its agent, who knowingly fails or refuses to make any contribution or other payment required of an employing unit under this act, or who knowingly fails or refuses to make any contribution or report at the time and in the manner required by the rules and regulations of the board, shall upon conviction be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment not longer than 60 days, or by both such fine and imprisonment, and each day of such failure or refusal shall constitute a separate and distinct offense. If the employer in question is a corporation, every officer thereof who knowingly participates in any violation specified in this paragraph shall be subject to the aforesaid penalties.

(4) Any violation of any provision of this act or order, rule or regulation of the board for which a penalty is neither prescribed above nor provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment not longer than 30 days, or by both such fine and imprisonment.

(5) All fines specified or provided for in this section shall be paid to the Maine cash sickness compensation fund.

(6) Any individual who, by reason of a mistake or misrepresentation made by himself or another, has received any sum as benefits under this act, in any week in which any condition for the receipt of such benefits

imposed by this act was not fulfilled by him, or with respect to any week in which he was disqualified from receiving such benefits, shall in the discretion of the board be liable to have such sum deducted from any future benefits payable to him under this act, or shall be liable to repay, to the board for the Maine cash sickness compensation fund a sum equal to the amount so received, and such sum shall be collectible in the manner provided in section 11 (4) of this act for the collection of past due contributions.

(7) The board shall be the party complainant to any complaint and warrant brought to invoke the penalties provided for in this section, and the members of the board shall be exempt from giving surety for costs in any such action.

(8) All criminal actions for any violation of this act or any rule or regulation of the board shall be prosecuted by the attorney general or by any qualified member of the Maine bar that shall be designated by the board and approved by the attorney general to institute and prosecute such action.

Sec. 13. Saving clause. All the rights, privileges or immunities conferred by this act, or by acts done pursuant hereto, shall exist subject to the power of the legislature to amend or repeal this act at any time.

Sec. 14. Separability of provisions. If any of the provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Sec. 15. Administrative funds. To the extent that funds are made available by the Federal Government, under title III of the social security act as amended or otherwise for such purpose, the expenses of administering this act shall be paid from such funds provided that this section shall not be considered to permit expenditure of funds from the unemployment compensation administration account contrary to the provisions of subsection (16) of section 11 of the unemployment compensation law; and provided further, however, that in the event that the social security act is amended to permit funds granted under title III thereof to be used to pay expenses of administering a sickness compensation law, such as this act, then from and after the effective date of such amendment, the expenses of administering this act shall be paid out of said unemployment compensation administration account or any other account or fund in which funds granted under said title III shall be deposited.

There is hereby appropriated to the board out of the fund a sum which shall not be in excess of 1% of the contributions of 1 year to be used in payment of expenses of administering this act during the period from the effective date of this act through June 30, 1944; and there is hereby appropriated annually thereafter out of the fund a sum which shall not be in excess of 1% of the contributions of 1 year for payment of expenses of administering this act during each fiscal year thereafter; provided, however, that such sums shall be available to the board for payment of expenses of administration of this act only to the extent that moneys received from the federal government are not available for such purpose as provided in the preceding paragraph.

Sec. 16. Declared purpose. This act shall be construed liberally in aid of its declared purpose which declared purpose is to lighten the burden which now falls on the unemployed worker and his family.