

MAINE STATE LEGISLATURE

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

Legislative Document

No. 957

S. P. 348

In Senate, February 24, 1955

Referred to the Committee on Labor, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Farris of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT to Clarify the Employment Security Law.

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

Sec. 1. R. S., c. 29, § 3, sub-§ IX, ¶ A, amended. Paragraph A of subsection IX of section 3 of chapter 29 of the revised statutes is hereby amended to read as follows:

'A. ~~Any~~ Prior to January 1, 1956, any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment 8 or more individuals, irrespective of whether the same individuals are or were employed in each such day;

A-1. On and after January 1, 1956, any employing unit which for some portion of a day, but not necessarily simultaneously, in each of 20 different weeks, whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in employment 4 or more individuals, irrespective of whether the same individuals are or were employed in each such day. However, no contributions shall become due and payable from those employers covered by this paragraph for the calendar year of 1955.'

Sec. 2. R. S., c. 29, § 3, sub-§ IX, ¶ E, repealed and replaced. Paragraph E of subsection IX of section 3 of chapter 29 of the revised statutes is hereby repealed and the following enacted in place thereof:

'E. Any employing unit not an employer by reason of any other paragraph of this subsection, for which within either the current or preceding calendar

year service in employment is or was performed with respect to which such employing unit is liable for any Federal Tax against which credit may be taken for contributions required to be paid into a State unemployment fund.'

Sec. 3. R. S., c. 29, § 8, sub-§ XIII, amended. Subsection XIII of section 5 of chapter 29 of the revised statutes is hereby amended to read as follows:

'XIII. Regulations for filing payroll reports; penalty. The Commission may prescribe regulations for the filing of payroll reports from the employing units in the State and the failure on the part of any employing unit to file the payroll reports within the time stated by the regulation of the Commission shall render the employing unit liable to a penalty of ~~\$5 a day for the 1st calendar day of delinquency and \$1 a day for each such day of delinquency thereafter, until the report is filed with the commission~~ \$10, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable accident which shall excuse the employing unit from said penalty.'

Sec. 4. R. S., c. 29, § 13, sub-§ III, repealed and replaced. Subsection III of section 13 of chapter 29 of the revised statutes is hereby repealed and the following enacted in place thereof:

'III. Weekly benefit for partial unemployment. On and after April 1, 1955, each eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit in an amount equal to his weekly benefit amount less that part of his earnings paid or payable to him with respect to such week which is in excess of \$5 plus any fraction of a dollar; except that remuneration paid or payable as holiday pay shall not be deemed wages for the purpose of this subsection.'

Sec. 5. R. S., c. 29, § 14, sub-§ III, repealed and replaced. Subsection III of section 14 of chapter 29 of the revised statutes is hereby repealed and the following enacted in place thereof:

'III. He is able to work and is available for work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business as his prior training or experience shows him to be fitted or qualified; and in addition to having complied with the provisions of subsection II is himself making a reasonable effort to seek such work; provided that an individual shall be ineligible to receive benefits for any week which is recognized as a vacation week for his grade, class or shift at the factory, mill, workshop or other premises where he is employed; except that an individual who is not entitled to pay for any such vacation week may qualify for benefits or credit for his waiting period if he is available for work and complies with the other conditions of eligibility; and, provided further, that a female claimant shall be ineligible to receive benefits, or waiting period credit, for any week wholly or partly within the 8 weeks immediately prior to the expected date of such individual's giving birth to a child and within the 4 weeks after the actual birth of her child;'

Sec. 6. R. S., c. 29, § 14, sub-§ IV, amended. Subsection IV of section 14 of chapter 29 of the revised statutes is hereby amended to read as follows:

'IV. He has served a waiting period of 1 week of total or partial unemployment. Provided that this requirement shall not interrupt the payment

of benefits for consecutive weeks of unemployment and provided further that the week immediately preceding a benefit year, if part of an uninterrupted period of unemployment which continued into such benefit year, shall be deemed, for the purpose of this subsection only, to be within such benefit year as well as within the preceding benefit year. ~~Ne~~ Except as provided in this subsection, no week shall be counted as a week of total or partial unemployment for the purpose of this subsection.'

Sec. 7. R. S., c. 29, § 15, sub-§ VI, repealed and replaced. Subsection VI of section 15 of chapter 29 of the revised statutes is hereby repealed and the following enacted in place thereof:

'VI. For any week for which the deputy finds that the claimant made a willful misrepresentation in his application to obtain benefits and his maximum benefit amount shall be reduced by an amount equivalent to the number of such weeks of disqualification times his weekly benefit amount, then and in that event, the deputy shall notify the claimant of the deputy'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 chapter.

If the claimant appeals the decision of the deputy, the Appeal Tribunal shall, after an opportunity for a fair hearing, affirm, modify or set aside the decision of the deputy and if it is found that the claimant did in fact knowingly accept benefits to which he was not entitled the claimant shall be ineligible to receive any further benefits for a period not to exceed one year, such period to be determined by the Appeal Tribunal.

If the claimant does not appeal the decision of the deputy, the Appeal Tribunal shall review the record and if it is found that the claimant knowingly accepted benefits to which he was not entitled the claimant shall be found ineligible to receive any further benefits for a period not to exceed one year, such period to be determined by the Appeal Tribunal.

Appeals from the decision of the Appeal Tribunal may be taken in the same manner as is provided in section 16 of this chapter, except that appeals from the decision of the Appeal Tribunal, in cases wherein no appeal from the deputy's decision was filed by the claimant, shall apply only to the period of ineligibility as decreed by the Appeal Tribunal.'

Sec. 8. R. S., c. 29, § 16, sub-§ X, repealed and replaced. Subsection X of section 16 of chapter 29 of the revised statutes is hereby repealed and the following enacted in place thereof:

'X. Determination may be reconsidered; appeal. The Commission may reconsider a determination with respect to the weekly benefit amount and maximum total amount of benefits for a claimant for any given benefit year, if it finds that an error in computation or identity has occurred in connection therewith, or that wages have been erroneously reported, but no such redetermination shall be made after one year from the date of the original determination. Notice of any such determination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this

section with respect to notice of an original determination. If the maximum amount of benefits is increased upon such redetermination, an appeal therefrom solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in subsection II of this section. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to review in connection with an appeal by claimant with respect to subsequent benefits which may be affected by the redetermination. An appeal may be filed in the manner and subject to the limitations provided in subsection II of this section.

The Commission may reconsider a benefit payment for any particular week or weeks whenever it finds that an error in computation or identity has occurred in connection therewith or that earnings were erroneously reported, but no such redetermination may be made after one year from the date of payment for such week or weeks. Notice of any such redetermination shall be promptly given to the claimant. Unless the claimant files an appeal from such redetermination within 5 calendar days from delivery or 7 calendar days after such notification was mailed to his last known address such redetermination shall be final and benefits shall be paid or denied in accordance therewith.

Subject to the same limitations and for the same reasons, the commission may reconsider the determination in any case in which the final decision has been rendered by an appeal tribunal, the commission or a court, and may apply to the body or court which rendered such final decision to issue a revised decision. In the event that an appeal involving an original determination is pending as of the date a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.'

Sec. 9. R. S., c. 29, § 17, sub-§ III, ¶ A, sub-¶ 1, amended. Subparagraph 1 of paragraph A of subsection III of section 17 of chapter 29 of the revised statutes is hereby amended to read as follows:

'1. Claimant's separation from his last employer was for misconduct in connection with his employment, or was voluntary without good cause attributable to such employer; or was involuntary because of partial or total destruction of an employer's establishment caused by fire, flood, hurricane, or tornado; or'

Sec. 10. R. S., c. 29, § 17, sub-§ IV, ¶ C, repealed. Paragraph C of subsection IV of section 17 of chapter 29 of the revised statutes is hereby repealed, as follows:

~~'C. Any employer who under the provisions of this chapter would otherwise be entitled to a rate of less than 2.7% shall nevertheless pay a rate of 2.7% for any quarter with respect to which he was in arrears in the payment of contributions or interest, unless the delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable accident which shall excuse the employing unit from said penalty.'~~

Sec. 11. R. S., c. 29, § 17, sub-§ IV, ¶ F, sub-¶ 2, repealed and replaced. Subparagraph 2 of paragraph F of subsection IV of section 17 of chapter 29 of

the revised statutes is hereby repealed and the following enacted in place thereof:

'2. The Commission shall provide each employer at least monthly with a notification of benefits paid and chargeable to his experience rating record and any such notification, in the absence of an application for redetermination filed in such manner and within such period as the Commission may prescribe, shall become conclusive and binding upon the employer for all purposes. Such redetermination, made after notice and opportunity for hearing, and the Commission's findings of fact in connection therewith, may be introduced in any subsequent administrative or judicial proceedings involving the determination of the rate of contributions of any employer for the 12-month period commencing July 1 of any year and shall be entitled to the same finality as is provided in this section with respect to the findings of fact made by the Commission in proceedings to redetermine the contribution rates of an employer.'

Sec. 12. R. S., c. 29, § 18, sub-§ II, ¶¶ A, B, amended. Paragraphs A and B of subsection II of section 18 of chapter 29 of the revised statutes are hereby amended to read as follows:

'A. Except as otherwise provided in subsection III of this section, an employing unit shall cease to be an employer subject to the provisions of this chapter as of the 1st day of January of any calendar year, only if it files with the Commission, prior to the 20th day of January of such year, a written application for termination of coverage, and the commission finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed § 4 or more individuals in employment subject to the provisions of this chapter. For the purpose of this subsection, the two or more employing units mentioned in paragraph B or C or D of subsection IX of section 3 shall be treated as a single employing unit.

B. The Commission may upon its own motion terminate coverage of any employer when the commission finds that there were no 20 different days, each day being in a different week within the preceding calendar year, within which such employing unit employed § 4 or more individuals in employment subject to the provisions of this chapter; and the Commission may, upon its own motion terminate the coverage of an employing unit which had become an employer by virtue of the provisions of subsection III of this section, as of January 1 of any calendar year when such employing unit has, by virtue of approval of its election to become a subject employer, been such a subject employer for the two or more preceding calendar years.'

Sec. 13. R. S., c. 29, § 19, sub-§ I-A, additional. Section 19 of chapter 29 of the revised statutes is hereby amended by adding after subsection I thereof, a new subsection to be numbered I-A, to read as follows:

'I-A. **Penalty on past-due contributions.** In the event quarterly contributions are not paid when due, the Commission shall assess a penalty of 5% of the amount of the contributions but such penalty shall not be less than \$5 nor more than \$100. The Commission may waive such penalty if it finds that the

delay was occasioned by the illness or death of the person in charge of the records of the employing unit or by other unavoidable accident which shall excuse the employing unit from said penalty. Provided, however, an extension of time up to 30 days beyond the due date may be allowed by the Commission for good cause upon written request made on or before the due date.'