

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

# STATE LAW LIBRARY

Transmitted by Director of Legislative Research pursuant to joint order.

## NINETY - EIGHTH LEGISLATURE

### Legislative Document

No. 1178

S. P. 419

In Senate, March 7, 1957.

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

CHESTER T. WINSLOW, Secretary.

Presented by Senator Curtis of Cumberland.

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-SEVEN

### 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 R. S., c. 29, § 1, repealed and replaced.** Section 1 of chapter 29 of the Revised Statutes is hereby repealed and the following section enacted in place thereof:

'Sec. 1. Statement of policy. Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Unemployment is therefore a subject of general interest and concern which requires appropriate action by the Legislature to prevent its spread and to lighten its burden which may fall upon the unemployed worker, his family and the entire community. The achievement of social security requires protection against this greatest hazard of our economic life. This objective can be furthered by operating free public employment offices in affiliation with a nation-wide system of public employment services; by devising appropriate methods for reducing the volume of unemployment; and by the systematic accumulation of funds during periods of employment from which benefits may be paid for periods of unemployment, thus maintaining purchasing power, promoting the use of the highest skills of unemployed workers and limiting the serious social consequences of unemployment.'

**Sec. 2. R. S., c. 29, § 3, sub-§ I, repealed and replaced.** All of subsection I of section 3 of chapter 29 of the Revised Statutes is hereby repealed and the following enacted in place thereof:

**I. "Agricultural labor"** includes all services performed on a farm in the employ of the operator of such farm, in connection with the cultivation of the

soil, the harvesting of crops, or the raising of livestock, bees or poultry, or fur-bearing animals, or in connection with the processing, packing or marketing of the produce of such farm. Provided, however, that storage sheds operated by the operator of a farm shall be considered as being part of the farm. The term "farm" shall include stock, dairy, poultry, fruit, fur-bearing animal and truck farms, nurseries, greenhouses and orchards.'

**Sec. 3. R. S., c. 29, § 3, sub-§ IX, ¶ A, repealed.** Paragraph A of subsection IX of section 3 of chapter 29 of the Revised Statutes, as amended by section 1 of chapter 421 of the public laws of 1955, is hereby repealed, as follows:

~~'A. 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;'~~

**Sec. 4. R. S., c. 29, § 3, sub-§ IX, ¶ A-1, amended.** Paragraph A-1 of subsection IX of section 3 of chapter 29 of the Revised Statutes, as enacted by section 1 of chapter 421 of the public laws of 1955, is hereby amended to read as follows:

~~'A + A. On and after January 1, 1956, any~~ 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~~ **No** contributions shall become due and payable from those employers covered by this paragraph for the calendar year 1955.'

**Sec. 5. R. S., c. 29, § 3, sub-§ XI, ¶ F, sub-¶ 2, amended.** Subparagraph 2 of paragraph F of subsection XI of section 3 of chapter 29 of the Revised Statutes is hereby amended to read as follows:

**'2.** Service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by the provisions of this chapter, except that on and after January 1, 1940, to the extent that the Congress of the United States has permitted states to require any instrumentalities of the United States to make payments into an unemployment compensation fund under a state unemployment compensation or employment security law, all of the provisions of this chapter shall be applicable to such instrumentalities and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services; ~~provided that if.~~ **If** this State shall not be certified for any year by the Secretary of Labor under section ~~1603~~ **3304** of the Federal Internal Revenue Code, the payments required of such instrumentalities with respect to such year shall be refunded by the Commission from the fund in the same manner and within the same period as is provided in subsection IV of section 19 with respect to contributions erroneously collected;'

**Sec. 6. R. S., c. 29, § 3, sub-§ XI, ¶ F, sub-¶ 10, amended.** Subparagraph 10 of paragraph F of subsection XI of section 3 of chapter 29 of the Revised Statutes is hereby amended to read as follows:

**'10.** Services performed in the employ of any other state, or any political subdivision thereof, or any instrumentality of any one or more of the foregoing which is wholly owned by one or more states or political subdivisions; and any services performed in the employ of any instrumentality of one or more other states or their political subdivisions to the extent that the instrumentality is, with respect to such service, immune under the Constitution of the United States from the tax imposed by section ~~400~~ 3301 of the Federal Internal Revenue Code;'

**Sec. 7. R. S., c. 29, § 3, sub-§ XI, ¶ F, sub-¶¶ 11 and 12, amended.** Subparagraphs 11 and 12 of paragraph F of subsection XI of section 3 of chapter 29 of the Revised Statutes are hereby amended to read as follows:

**'11.** Service performed in any calendar quarter in the employ of any organization exempt from income tax under section ~~401~~ 501 of the Federal Internal Revenue Code, if:

**12.** Service performed in the employ of an agricultural or horticultural organization exempt from income tax under section ~~401~~ (~~41~~) 501 of the Federal Internal Revenue Code;'

**Sec. 8. R. S., c. 29, § 3, sub-§ XI, ¶ F, sub-¶ 15, amended.** Subparagraph 15 of paragraph F of subsection XI of section 3 of chapter 29 of the Revised Statutes is hereby amended to read as follows:

**'15.** Service performed in any calendar quarter in the employ of a school, college or university, not exempt from income tax under section ~~401~~ 501 of the Federal Internal Revenue Code, if such service is performed by a student who is enrolled and is regularly attending classes at such school, college or university;'

**Sec. 9. R. S., c. 29, § 3, sub-§ XVII, ¶¶ A, B, amended.** Paragraphs A and B of subsection XVII of section 3 of chapter 29 of the Revised Statutes are hereby amended to read as follows:

**'A.** An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to him and during which he performs no services; except that remuneration payable or received as holiday pay **or as supplemental unemployment benefit payments which are paid from a trust fund created by an employing unit under a contract** shall not be deemed wages for the purpose of this subsection.

**B.** An individual shall be deemed "partially unemployed" in any week of less than full-time work if his wages payable from any source for such week are less than the weekly benefit amount he would be entitled to receive if totally unemployed and eligible; except that remuneration payable or received as holiday pay **or as supplemental unemployment benefit payments which are paid from a trust fund created by an employing unit under a contract** shall not be deemed wages for the purpose of this subsection.'

**Sec. 10. R. S., c. 29, § 3, sub-§ XIX, ¶ B, amended.** Paragraph B of subsection XIX of section 3 of chapter 29 of the Revised Statutes is hereby amended to read as follows :

**'B. The amount of any payment made after December 31, 1950, to, or on behalf of, an employee under a plan or system established by an employing unit which makes provision for his employees generally or for a class or classes of his employees, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of retirement, or sickness or accident disability, or medical and hospitalization expense in connection with sickness or accident disability, or death, or any amount paid into a trust fund created by an employing unit under a contract from which the trustee makes supplemental unemployment benefit payments to an unemployed worker ;'**

**Sec. 11. R. S., c. 29, § 3, sub-§ XIX, ¶ D, repealed and replaced.** Paragraph D of subsection XIX of section 3 of chapter 29 of the Revised Statutes is hereby repealed and the following enacted in place thereof :

**'D. The amount of any payment, other than vacation or sick pay, made after January 1, 1958, to an individual after the month in which he attains the age of 65, if he did not perform services for the employing unit in the period for which such payment is made.'**

**Sec. 12. R. S., c. 29, § 10, amended.** The 4th sentence of section 10 of chapter 29 of the Revised Statutes, as amended by section 2 of chapter 312 of the public laws of 1955, is hereby further amended to read as follows :

**'All such warrants for the payment of benefits from the benefit account shall be prepared by and shall be signed by the Chairman of the Commission, and countersigned by a designated member the remaining 2 members of the Commission, and when so signed and countersigned and delivered to the payee shall become a check against a designated bank or trust company acting as a depository of the State Government.'**

**Sec. 13. R. S., c. 29, § 13, sub-§ III, amended.** Subsection III of section 13 of chapter 29 of the Revised Statutes, as repealed and replaced by chapter 377 of the public laws of 1955, is hereby amended to read as follows :

**'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 or as supplemental unemployment benefit payments which are paid from a trust fund created by an employing unit under a contract shall not be deemed wages for the purpose of this subsection.'

**Sec. 14. R. S., c. 29, § 14, sub-§ IV, ¶ C, amended.** Paragraph C of subsection IV of section 14 of chapter 29 of the Revised Statutes is hereby amended to read as follows :

**'C.** Unless the individual was eligible for benefits with respect thereto as provided in this section and section 15, except for the requirements of this subsection and of paragraph **€ B** of subsection V of section 15;'

**Sec. 15. R. S., c. 29, § 15, sub-§ V, repealed and replaced.** Subsection V of section 15 of chapter 29 of the Revised Statutes is hereby repealed and the following enacted in place thereof:

**'V. For any week with respect to which he is receiving or has received remuneration in the form of:**

**A. Dismissal wages or wages in lieu of notice; or**

**B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States;**

If such remuneration under the provisions of paragraph A is less than the benefits which would otherwise be due under the provisions of this chapter, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration;'

**Sec. 16. R. S., c. 29, § 15, sub-§ VI, repealed and replaced.** Subsection VI of section 15 of chapter 29 of the Revised Statutes, as repealed and replaced by section 6 of chapter 421 of the public laws of 1955, is hereby repealed and the following enacted in place thereof:

**'VI. For any week for which the Deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly fails to disclose a material fact 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. In addition, if the Deputy finds that the claimant did in fact knowingly accept benefits to which he was not entitled, he shall find the claimant ineligible to receive any further benefits for a period of not less than 3 months nor more than one year.'**

**Sec. 17. R. S., c. 29, § 16, sub-§ II, amended.** The 4th paragraph of subsection II of section 16 of chapter 29 of the Revised Statutes is hereby amended to read as follows:

**'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; provided, however, if new evidence or pertinent facts that would alter such determination become known to the Deputy prior to the date such determination becomes final, a redetermination is authorized, but such redetermination must be mailed before the original determination becomes final. If an appeal is duly filed, benefits with respect to the period of any possible disqualification involved shall be paid only after the final determination of the Commission; provided that if an appeal tribunal affirms a determination of a Deputy or the Commission affirms a determination of an appeal tribunal, allowing bene-**

fits, 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. 18. R. S., c. 29, § 16, sub-§ X, amended.** The 2nd paragraph of subsection X of section 16 of chapter 29 of the Revised Statutes, as repealed and replaced by section 7 of chapter 421 of the public laws of 1955, is hereby amended to read as follows:

'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 of~~ 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.'

**Sec. 19. R. S., c. 29, § 16, sub-§ XI, repealed.** Subsection XI of section 16 of chapter 29 of the Revised Statutes is hereby repealed.

**Sec. 20. R. S., c. 29, § 17, sub-§ IV, ¶ G, amended.** Paragraph G of subsection IV of section 17 of chapter 29 of the Revised Statutes, as enacted by chapter 296 of the public laws of 1955, is hereby amended to read as follows:

'G. Notwithstanding any other inconsistent provision of law, any employer, who has been notified of his rate of contribution, as required by subparagraph 1 of paragraph F of this subsection, ~~for the year commencing July 1, 1955, or for any year commencing July 1st thereafter,~~ may voluntarily make payment of additional contributions, and, upon such payment, shall promptly receive a recomputation and renotification of his contribution rate for such year, including in the calculation the additional contributions so made. Any such additional contribution shall be made during the ~~to~~ 30-day period following the date of the mailing to the employer of such notice of his contribution rate in any year, unless, for good cause, the time of payment has been extended by the Commission for not to exceed an additional 10 days.'

**Sec. 21. R. S., c. 29, § 18, sub-§ II, ¶ A, amended.** Paragraph A of subsection II of section 18 of chapter 29 of the Revised Statutes, as amended by section 10 of chapter 421 of the public laws of 1955, is hereby further 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~~ 31st 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 2 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.'

**Sec. 22. R. S., c. 29, § 18, sub-§ III, ¶¶ A and B, amended.** Paragraphs A and B of subsection III of section 18 of chapter 29 of the Revised Statutes are hereby amended to read as follows:

**'A.** An employing unit, not otherwise subject to the provisions of this chapter, which files with the Commission its written election to become an employer subject hereto for not less than 2 calendar years, shall, with the written approval of such election by the Commission, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1st of any calendar year subsequent to such 2 calendar years, only if it files with the Commission, prior to the ~~20th~~ 31st day of January of such year, a written application for termination of coverage.

**B.** Any employing unit, for which services that do not constitute employment as defined in this chapter are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this chapter for not less than 2 calendar years. Upon the written approval of such election by the Commission, such services shall be deemed to constitute employment subject to the provisions of this chapter from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such 2 calendar years, if not later than January ~~20th~~ 31st of such year such employing unit has filed with the Commission an application for termination of coverage.'

**Sec. 23. R. S., c. 29, § 19, sub-§ I, amended.** Subsection I of section 19 of chapter 20 of the Revised Statutes is hereby amended to read as follows:

**'I. Interest on past-due contributions.** Contributions, unpaid on the date on which they are due and payable as prescribed by the Commission, shall bear interest at the rate of ~~1%~~  $\frac{1}{2}$  of 1% per month from and after such date until payment is received by the Commission; ~~provided, however, in.~~ In such cases of delinquency as are shown to the satisfaction of the Commission to arise from reasonable questions of liability under the terms of this chapter, the Commission may, in its discretion, abate not exceeding 75% of the interest ~~herein~~ imposed.'

**Sec. 24. R. S., c. 29, § 21, sub-§ I, amended.** Subsection I of section 21 of chapter 29 of the Revised Statutes is hereby amended to read as follows:

**'I.** As used in this section the term "seasonal industry" means an ~~occupation~~ ~~or~~ industry in which, because of the seasonal nature thereof it is customary to operate only during a regularly recurring period or periods of less than 40



weeks in a calendar year. The Commission shall, after investigation and hearing, determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the ~~occupation or~~ industry in question, operations are conducted. Until such determination by the Commission, no ~~occupation or~~ industry shall be deemed seasonal.'