

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Ninety-fifth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Ninety-fifth Legislature

1951

Chapter 203

AN ACT Relating to Teachers' Contracts.

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

R. S., c. 37, § 78, sub-§ V, amended. Subsection V of section 78 of chapter 37 of the revised statutes is hereby amended to read as follows:

'V. Shall nominate teachers; election to be approved by committee; probationary period; teachers may be elected under contract. He shall nominate all teachers subject to such regulations governing salaries and the qualifications of teachers as the superintending school committee shall make, and upon the approval of nominations by said committee, he may employ teachers so nominated and approved for such terms ~~not to exceed 5 years~~ as he may deem proper, subject to the approval of the school committee. Except that after a probationary period of not to exceed 3 years, subsequent contracts of duly certified teachers shall be for not less than 2 years, and furthermore, that unless a duly certified teacher receives written notice to the contrary at least 6 months before the terminal date of the contract, the contract shall be extended automatically for 1 year and similarly in subsequent years, although the right to an extension for a longer period of time through a new contract is specifically reserved to the contracting parties. The right to terminate a contract, after due notice of 90 days, is reserved to the superintending school committee when changes in local conditions warrant the elimination of the teaching position for which the contract was made. Provided, in case the superintendent of schools and the superintending school committee fail to legally elect a teacher, the commissioner shall have authority to appoint a substitute teacher who shall serve until such election is made.'

Effective August 20, 1951

Chapter 204

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. 24, § 3, sub-§ III, amended. The last paragraph of subsection III of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'Provided further, however, that these exceptions as to "base period" shall not be effective with respect to individuals inducted into or enlisting in military service who choose to continue voluntarily in such service beyond the established period for which first inducted or enlisted, or who are eligible for unemployment benefits under a federal program.'

Sec. 2. R. S., c. 24, § 3, sub-§ XI, ¶ F, sub-¶ 2, amended. Subparagraph 2 of paragraph F of subsection XI of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, 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 this state shall not be certified for any year by the ~~Social Security Board~~ Secretary of Labor under section 1603 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. 3. R. S., c. 24, § 3, sub-§ XI, ¶ F, sub-¶ 11, division a, amended. Division a of subparagraph 11 of paragraph F of subsection XI of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'a. The remuneration for such service ~~does not exceed \$45~~ is less than \$50, or'

Sec. 4. R. S., c. 24, § 3, sub-§ XI, ¶ F, sub-¶ 15, amended. Subparagraph 15 of paragraph F of subsection XI of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, 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 sec-

tion 101 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; ~~and the remuneration for such service does not exceed \$45, exclusive of room, board and tuition;~~

Sec. 5. R. S., c. 24, § 3, sub-§ XI, ¶ G, additional. Subsection XI of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended by adding thereto a new paragraph to be lettered G, to read as follows:

'G. Notwithstanding any other provisions of this section, "employment" shall include service with respect to which a tax is required to be paid under any Federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.'

Sec. 6. R. S., c. 24, § 3, sub-§ XVII, ¶ B, amended. Paragraph B of subsection XVII of section 3 of chapter 24 of the revised statutes as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'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 for the purpose of establishing waiting period only, any week of less than full time work for which his wages payable from any source are less than \$3 shall be counted as a week of total unemployment.~~

Sec. 7. R. S., c. 24, § 3, sub-§ XIX, amended. The 2nd sentence of the 1st paragraph of subsection XIX of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with regulations prescribed by the commission, except that for the purposes of ~~subsections II and IV~~ subsection II and IV of section 13, subsection V of section 14, and section 17 such terms shall not include:'

Sec. 8. R. S., c. 24, § 3, sub-§ XIX, ¶ A, repealed and replaced. Paragraph A of subsection XIX of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby repealed and the following enacted in place thereof:

'A. Subsequent to December 31, 1950, that part of remuneration which after remuneration equal to \$3,000 has been paid in a calendar

year to an individual by an employer or his predecessor with respect to employment during any calendar year, is paid to such individual by such employer during such calendar year unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. The wages of an individual for employment with an employer shall be subject to this exception whether earned in this state or any other state when the employer-employee relationship is between the same legal entities.'

Sec. 8-A. R. S., c. 24, § 3, sub-§ XIX, ¶B, amended. Paragraph B of subsection XIX of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'B. The amount of any payment ~~with respect to services performed after July 26, 1949~~ 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; ~~provided the employee has not the option to receive, instead of provisions for such death benefit, any part of such payment or, if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit, and has not the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employing unit;~~

Sec. 9. R. S., c. 24, § 3, sub-§ XIX, ¶ D, amended. Paragraph D of subsection XIX of section 3 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'D. Dismissal payments ~~after July 26, 1949~~ before January 1, 1952 which the employing unit is not legally required to make.'

Sec. 10. R. S., c. 24, § 5, sub-§ VII, amended. Subsection VII of section 5 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended by adding before the last sentence thereof a new sentence, to read as follows:

'Records, with any necessary authentication thereof, required in the prosecution of any criminal action brought by another state for misrepresentation to obtain benefits under the law of this state shall be made available to the agency administering the employment security law of any such state for the purpose of such prosecution.'

Sec. 11. R. S., c. 24, § 5, sub-§ XI, amended. The 1st sentence of subsection XI of section 5 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'In the administration of the provisions of this chapter, the commission shall cooperate to the fullest extent consistent with the provisions of this chapter with the ~~Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended~~ Department of Labor; shall make such reports, in such form and containing such information as the ~~Social Security Board~~ Secretary of Labor may from time to time require, and shall comply with such provisions as the ~~Social Security Board~~ Secretary of Labor may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations ~~prescribed by the Social Security Board~~ of the Secretary of Labor governing the expenditure of such sums as may be allotted and paid to this state under Title III of the Social Security Act for the purpose of assisting in the administration of the provisions of this chapter.'

Sec. 12. R. S., c. 24, § 5, sub-§ XII, amended. Subsection XII of section 5 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended by adding at the end thereof 2 new paragraphs, to read as follows:

'On request of an agency which administers an employment security law of another state, and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact with respect to a claim taken in this state as an agent for such agency, the commission may collect from such claimant the amount of such benefits to be refunded to such agency.'

In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state, such amounts may be collected without interest by civil action in the name of the commission acting as agent for such agency.'

Sec. 13. R. S., c. 24, § 6, sub-§ I, amended. The 1st sentence of subsection I of section 6 of chapter 24 of the revised statutes, as repealed and

replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'The commission shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of the provisions of this chapter and for the purpose of performing such duties as are within the purview of the ~~act of~~ ~~congress~~ entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," approved June 6, 1933 (~~48 Stat. 113~~; U. S. C., Title 29, Sec. 49 (e)), as amended "Wagner-Peyser Act."'

Sec. 14. R. S., c. 24, § 7, sub-§ II, repealed and replaced. Subsection II of section 7 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby repealed and the following enacted in place thereof:

'II. Reimbursement of fund. If any moneys received in the employment security administration fund after June 30, 1941 are found by the Secretary of Labor because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of the provisions of this chapter, it is the policy of this state that such moneys shall be replaced by moneys appropriated for such purpose from the general funds of this state to the employment security administration fund for expenditure as provided in subsection I of this section. Upon receipt of notice of such a finding by the Secretary of Labor the commission shall promptly report the amount required for such replacement to the governor and the governor shall at the earliest opportunity submit to the legislature a request for the appropriation of such amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of Title III of the Social Security Act.'

Sec. 15. R. S., c. 24, § 7, sub-§ III, repealed. Subsection III of section 7 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby repealed.

Sec. 15-A. R. S., c. 24, § 13, sub-§ III, amended. The 3rd sentence of subsection III of section 13 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'The individual's weekly earning class shall be determined by the wages earned by him ~~for employment~~ during the week for which he claims a partial benefit as shown in column (B).'

Sec. 16. R. S., c. 24, § 15, sub-§ V, ¶ A, amended. Paragraph A of subsection V of section 15 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'A. ~~Dismissal~~ Prior to January 1, 1952, dismissal wages or wages in lieu of notice which the employing unit is required by law to pay; subsequent to December 31, 1951 dismissal wages or wages in lieu of notice;'

Sec. 17. R. S., c. 24, § 15, sub-§ VI, amended. The 2nd paragraph of subsection VI of section 15 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'If a hearing is not requested by the claimant, or an appeal taken therefrom, then the decision of the deputy 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, and whenever the decision of a deputy is predicated upon a claimant's knowingly accepting benefits to which he is not entitled, the appeal tribunal shall, after opportunity for 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 a benefit to which he was not entitled, the claimant shall be ineligible to receive any further benefits for a period not to exceed 1 year ~~from the week for which he first knowingly received such benefit~~, 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.'

Sec. 18. R. S., c. 24, § 17, sub-§ III, ¶ A, sub-¶ 2, amended. Subparagraph 2 of paragraph A of subsection III of section 17 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'2. Claimant has refused to accept reemployment in suitable work when offered by ~~his last~~ a previous employer, without good cause attributable to such employer; or'

Sec. 19. R. S., c. 24, § 17, sub-§ IX, additional. Section 17 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended by adding thereto a new subsection to be numbered IX, to read as follows:

'IX. Contributions paid in error to another state. Contributions due under this chapter with respect to wages for insured work shall for the purpose of this section be deemed to have been paid to the fund as of the date payment was made as contributions therefor under another state or federal employment security law if payment into the fund of such contributions is made on such terms as the commission finds will be fair and reasonable as to all affected interests. Payments to the fund under this subsection shall be deemed to be contributions for purposes of this section.'

Sec. 20. R. S., c. 24, § 19, sub-§ IV, amended. Subsection IV of section 19 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended by adding at the end thereof the following sentences:

'If the commission determines that contributions or interest were erroneously paid to this state on wages insured under the employment security law of some other state or of the federal government, refund or adjustment thereof may be made without interest, irrespective of the time limits provided in this subsection, on satisfactory proof that contributions or interest on such wages have been paid to such other state or to the federal government. Nothing in this chapter, or any part thereof, shall be construed to authorize any refund or credit of money due and payable under the law and regulation in effect at the time such money was paid.'

Sec. 21. R. S., c. 24, § 28, sub-§ I, amended. Subsection I of section 28 of chapter 24 of the revised statutes, as repealed and replaced by section 1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'I. Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under the provisions of this chapter, or under an employment security law of any other state or of the Federal government, either for himself or for any other person, shall be punished by a fine of not less than \$20, nor more than \$50, or by imprisonment for not more than 30 days, or by both such fine and imprisonment ~~or by the suspension of the right to receive unemployment benefits for not more than a year, or by both such fine and imprisonment and suspension;~~ and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.'

Sec. 22. R. S., c. 24, § 28, sub-§ II, amended. Subsection II of section 28 of chapter 24 of the revised statutes, as repealed and replaced by section

1 of chapter 430 of the public laws of 1949, is hereby amended to read as follows:

'II. Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under the provisions of this chapter, or under an employment security law of any other state or of the Federal government, or who wilfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20, nor more than \$200, or by imprisonment for not more than 60 days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact, and each such failure or refusal shall constitute a separate offense.'

Effective August 20, 1951

Chapter 205

AN ACT Creating the Maine Economic Poisons Law.

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

Sec. 1. R. S., c. 27, §§ 187-I - 187-S, additional. Chapter 27 of the revised statutes is hereby amended by adding thereto 11 new sections, to be numbered 187-I to 187-S, inclusive, to read as follows:

'Maine Economic Poisons Law

Sec. 187-I. Short title. Sections 187-I to 187-S, inclusive, shall be known and may be cited as the "Maine economic poisons law."

Sec. 187-J. Definitions. As used in sections 187-I to 187-S, inclusive, the following words and phrases shall have the following meanings:

"Active ingredient" means an ingredient which will prevent, destroy, repel or mitigate insects, fungi, rodents, weeds or other pests.

"Adulterated" shall apply to economic poison if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in