

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

January 3, 1979 to June 15, 1979

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

Kennebec Journal
Augusta, Maine
1979

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
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ONE HUNDRED AND NINTH LEGISLATURE
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CHAPTER 515

H. P. 1096 — L. D. 1449

AN ACT to Amend Certain Provisions of the Employment Security Law.

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

Sec. 1. 1 MRSA § 2501, sub-§ 26, as enacted by PL 1977, c. 547, § 1, is repealed.

Sec. 1-A. 26 MRSA § 1043, sub-§ 1, ¶ A, sub-¶ (1), as enacted by PL 1977, c. 570, § 1, is amended to read:

(1) On a farm, in the employ of any person, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or, **aquacultural** or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and furbearing animals and wildlife;

Sec. 2. 26 MRSA § 1043, sub-§ 11, ¶ A, sub-¶ (3), as repealed and replaced by PL 1977, c. 570, § 6, is amended to read:

(3) The term "employment" shall include an individual's service, wherever performed within the United States or Canada ~~and in the case of Virgin Islands prior to January 1st of the year following the year in which the U. S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954~~ in the employ of an American employer, other than service which is deemed employment under the unemployment compensation law of any other state ~~the Virgin Islands~~ or Canada, and the place from which the service is directed or controlled is in this State.

Sec. 3. 26 MRSA § 1043, sub-§ 11, ¶ A-1, sub-¶ (4), first ¶, as amended by PL 1977, c. 570, § 8, is further amended to read:

(4) The service of an individual who is a citizen of the United States, performed outside the United States, after December 31, 1971, except in Canada, ~~and in the case of the Virgin Islands after December 31, 1971, and prior to January 1st of the year following the year in which the U. S. Secretary of Labor approves the unemployment compensation law of the Virgin Islands under section 3304 (a) of the Internal Revenue Code of 1954~~ in the employ of an American employer, other than service which is deemed employment under paragraph A, if:

Sec. 4. 26 MRSA § 1043, sub-§ 16, ¶ C, as repealed and replaced by PL 1977, c. 570, § 17, is repealed.

Sec. 5. 26 MRSA § 1043, sub-§ 17, ¶¶ A and B, as amended by PL 1975, c. 201, §§ 1 and 2, are further amended to read:

A. An individual, including corporate officers, 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 shall not be deemed wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received ~~by as a volunteer firemen~~ **fireman**, shall not be deemed wages for the purpose of this subsection.

B. An individual, including corporate officers, 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 not \$5 or more in excess of the weekly benefit amount he would be entitled to receive if totally unemployed and eligible, except that remuneration payable or received as holiday pay shall not be deemed wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances, or any amounts received as a voluteer fireman, **or as an elected member of the Legislature**, shall not be deemed wages for the purpose of this subsection.

Sec. 5-A. 26 MRSA § 1043, sub-§ 24, as enacted by PL 1979, c. 165, § 1, is repealed and the following enacted in its place:

24. **Insured worker.** An "insured worker" is an individual who has been paid wages of at least \$250 for insured work in each of 2 different quarters in his base period and has been paid total wages of at least \$900 in his base period for insured work. For each individual establishing a benefit year on or after January 1, 1980, an "insured worker" is an individual who has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in his base period and has been total wages equal to or exceeding 6 times the annual average weekly wage in his base period for insured work. The annual average weekly wage amount to be used for purposes of this subsection shall be that which is applicable at the time the individual files a request for determination of his insured status.

Sec. 6. 26 MRSA § 1044, sub-§ 1, last sentence is amended to read:

Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be ~~punished by a fine of not less than \$100 nor more than \$1,000, or by imprisonment for not more than 6 months, or by both~~ **guilty of a Class E crime.**

Sec. 7. 26 MRSA § 1044, sub-§ 2, 4th sentence, as enacted by PL 1965, c. 294, is repealed and the following enacted in its place:

Any person who violates any provision of this subsection shall be guilty of a Class E crime.

Sec. 8. 26 MRSA § 1044, sub-§ 2, last sentence is repealed.

Sec. 9. 26 MRSA § 1051, sub-§§ 1-3, are repealed and the following enacted in their place:

1. False statement or representation. A person is guilty of unemployment fraud if he makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact:

A. To obtain or increase any benefit or other payment under this chapter or under an employment security law of any other state or of the Federal Government;

B. To prevent or reduce the payment of unemployment benefits to any individual;

C. To avoid becoming or remaining an employer under this chapter; or

D. To avoid or reduce any contribution or other payment required from an employing unit under this chapter.

Each false statement or representation or failure to disclose a material fact shall constitute a separate offense. Unemployment fraud is a Class E crime.

2. Separate offense. Any person who willfully fails or refuses to make any contributions or other payments, to furnish any reports required by this chapter or to produce or permit the inspection or copying of records as required shall be guilty of a Class E crime. Each failure or refusal shall constitute a separate offense.

3. Class E crime. Any person who willfully violates any provision of this chapter or any regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be guilty of a Class E crime.

Sec. 9-A. 26 MRSA § 1082, sub-§ 5, last sentence is amended to read:

Each member of the advisory council shall be compensated in the amount of \$20 \$25 for each day in attendance upon a meeting of the council in addition to reimbursement for any necessary expenses.

Sec. 10. 26 MRSA § 1082, sub-§ 7, last sentence is amended to read:

Any person who violates any provision of this subsection shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not more than

~~90 days, or by both guilty of a Class E crime.~~

Sec. 11. 26 MRSA § 1082, sub-§ 9-A is enacted to read:

9-A. Refusal to appear. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda and other records, if it is in his power to do so, in obedience to a subpoena of the commission, the appeal tribunal or the duly authorized representative of either of them shall be guilty of a Class E crime. Whenever a person refuses to obey a subpoena duly issued by the commission, the appeal tribunal or the duly authorized representative of either of them, any court of this State within the jurisdiction of which the person resides or transacts business, shall have jurisdiction to issue to that person an order requiring him to appear and produce evidence or testimony and any failure to obey that order may be punished by the court as contempt thereof.

Sec. 12. 26 MRSA § 1191, sub-§ 3, first sentence, as amended by PL 1975, c. 710, § 1-A, is further amended to read:

On and after April 1, 1966, 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 \$10 plus any fraction of a dollar, except that remuneration payable or received as holiday pay shall not be deemed wages for the purpose of this subsection and except that any amounts received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances or any amounts received ~~by~~ **as a volunteer firemen fireman** or ~~by~~ **as** elected members of the Legislature, shall not be deemed wages for the purpose of this subsection.

Sec. 13. 26 MRSA § 1192, sub-§ 3, as repealed and replaced by PL 1975, c. 770, § 122, is amended to read:

3. Is able and available for work. He is able to work and is available for **full-time** work at his usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which his prior training or experience shows him to be fitted or qualified; and in addition to having complied with subsection 2 is himself actively seeking work in accordance with the regulations of the the commission; provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the commissioner shall be eligible to receive prorated benefits for that portion of the week during which he was able and available.

Sec. 13-A. 26 MRSA § 1192, sub-§ 5, first sentence, as enacted by PL 1979, c. 165, § 2, is amended to read:

For each eligible individual establishing a benefit year on or after January 1, 1980, he has been paid wages equal to or exceeding 2 times the annual average weekly wage for insured work in each of 2 different quarters in his base period and has

been paid total wages equal to or exceeding 7 6 times the annual average weekly wage in his base period for insured work.

Sec. 14. 26 MRSA § 1192, sub-§ 7, ¶ D is enacted to read:

D. With respect to weeks of unemployment beginning after June 30, 1979, benefits shall be denied to an individual who performed services in an educational institution while in the employ of an educational service agency for any week which commences during a period described in paragraphs A, B and C if that individual performs any services described in paragraphs A or B in the first of these periods, as specified in the applicable paragraph, and there is a contract or a reasonable assurance as applicable in the appropriate paragraph, that the individual will perform these services in the 2nd of these periods, as applicable in the appropriate paragraph. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purposes of providing these services to one or more educational institutions.

Sec. 15. 26 MRSA § 1193, sub-§ 1, ¶ A, last sentence, as repealed and replaced by PL 1977, c. 472, § 1-A, is amended to read:

Leaving work shall not be considered voluntary without good cause when it is caused by the illness or disability of the claimant or of his immediate family and the claimant took all reasonable precautions to protect his employment status by having promptly notified his employer as to the reasons for his absence and by promptly requesting reemployment when he is again able to resume employment; nor shall leaving work be considered voluntary without good cause if the leaving was necessary for the claimant to accompany, follow or join his spouse in a new place of residence and he can clearly show **within 7 days** upon arrival at the new place of residence an attachment to the new labor market and is in all respects able, available and actively seeking suitable work;

Sec. 16. 26 MRSA § 1193, sub-§ 2, ¶ A is enacted to read:

A. For the duration of any period for which he has been suspended from his work by his employer as discipline for misconduct, if so found by the commission, or until the claimant has earned 4 times his weekly benefit amount in employment by an employer.

Sec. 16-A. 26 MRSA § 1193, sub-§ 8 is enacted to read:

8. Retirement benefits. For any week with respect to which he is receiving, is entitled to receive or has received retirement income in accordance with the following provisions:

A. Notwithstanding any other provisions of this chapter, for weeks beginning after March 31, 1980, the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity or any other similar periodic

payment which is based on any previous work of the individual shall be deducted from his weekly benefit payment if the deduction is required as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

B. If at any time following the enactment of this subsection paragraph A or any provision thereof shall not be required by federal law in order for an eligible employer to qualify for full tax credit against the tax imposed by the Federal Unemployment Tax Act, then paragraph A or the provision thereof no longer required shall have no force or effect.

Sec. 17. 26 MRSA § 1195, sub-§ 1, ¶ A, sub-¶ (3), as amended by PL 1977, c. 570, § 23, is further amended to read:

(3) Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, or under such other federal laws as are specified in regulations issued by the United States Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada or the Virgin Islands; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he shall be considered an exhaustee if the other provisions of this definition are met; ~~provided that the reference in this subparagraph to the Virgin Islands shall be applicable effective on the day, on which the U. S. Secretary of Labor approves under section 3304 (a) of the Internal Revenue Code of 1954, an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.~~

Sec. 17-A. 26 MRSA § 1224, first sentence, is amended to read:

All employers, exempt from the weekly payment of wage law of this State, ~~shall~~ **may be required to report to the commission all accrued wages payable for employment during the calendar year up to and including December 31st of such calendar year quarter when filing payroll reports in accordance with section 1082, subsection 13** under such regulations as the commission may prescribe.

Sec. 18. 26 MRSA § 1225, sub-§ 3, as enacted by PL 1975, c. 462, § 9, is amended by adding at the end a new sentence to read:

If it is shown to the satisfaction of the commission that the delinquency arose through no fault of the employer, no assessment of interest shall be made.

Sec. 19. 26 MRSA §§ 1602, 1603 and 1604, as enacted by PL 1977, c. 547, § 2, are repealed and the following enacted in their place:

§ 1602. Displaced Homemaker Program

The Department of Manpower Affairs shall establish a program to provide job

counseling, job training, job placement and referral services to displaced homemakers.

§ 1603. Commissioner

1. Powers. The Commissioner of Manpower Affairs, hereinafter referred to as the commissioner, shall administer the Displaced Homemakers Program. The commissioner may delegate any or all of the authority granted him by this chapter to other personnel within the Department of Manpower Affairs.

2. Regulations. The commissioner shall promulgate any regulations necessary to carry out the purposes of this chapter.

§ 1604. Displaced Homemakers Advisory Council

1. Membership. The Displaced Homemakers Advisory Council, hereinafter in this chapter called the "council," shall be composed of the following individuals:

A. The Commissioner of Manpower Affairs or the commissioner's designee; and

B. Nine individuals who have experience with the problems of displaced homemakers, career counseling or adult vocational education. The members shall be appointed by the Governor. The council shall elect its own chairman.

2. Responsibility. The Displaced Homemakers Advisory Council shall advise the commissioner on formulating policies related to the administration of this chapter.

Sec. 20. 26 MRSA §§ 1605, 1606, 1607, 1608 and 1609, as enacted by PL 1977, c. 547, § 2, are repealed.

Effective September 14, 1979

CHAPTER 516

H. P. 435 — L. D. 552

AN ACT to Require that all Public Employees be Paid at Least the Federal Minimum Wage.

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

Sec. 1. 26 MRSA § 663, sub-§ 3, ¶ E, as amended by PL 1965, c. 410, § 2, is repealed and the following enacted in its place: