

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

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ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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demand or receive any remuneration for such those services rendered in this State, shall be guilty of a Class E crime. This section shall not be construed to apply to practice before any Federal Court by any person duly admitted to practice therein; nor to a person pleading or managing his own cause in court; nor to the officer or employee of a corporation, partnership or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738. In all proceedings, the fact, as shown by the records of the Administrative Assistant to the Chief Justice Board of Overseers of the Bar, that such that person is not recorded as a member of the bar shall be prima facie evidence that he is not a member of the bar licensed to practice law in the State.

Effective September 23, 1983.

## CHAPTER 127

S.P. 179 - L.D. 546

### AN ACT to Require Participation in Good Faith in Fact Finding.

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

26 MRSA §1026, sub-§1, ¶E, as enacted by PL 1975, c. 603, §1, is amended to read:

E. To participate in good faith in the mediation, fact finding and arbitration procedures required by this section.

Effective September 23, 1983.

## CHAPTER 128

H.P. 349 - L.D. 597

### AN ACT to Provide for Leaves of Absence for Employees Elected to the Legislature, Excluding Employees Covered under Provisions Dealing with Teachers.

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

Sec. 1. 26 MRSA c. 7, sub-c. V-A is enacted to read:

SUBCHAPTER V-A

LEAVE OF ABSENCE AS LEGISLATOR

§821. Person employed in position other than temporary

Any person, except a person covered under Title 20, section 2001, employed in a position other than a temporary position shall be granted a leave of absence to fulfill the duties of a Legislator, provided that the employee gives written notice to his employer of his intent to become a candidate for the Legislature within 10 days after taking action under Title 21 to place his name on a primary or general election ballot. Following his term of service as a Legislator, the employee, if he is still qualified to perform the duties of the position from which he was granted leave, shall be entitled to be restored to his previous, or a similar, position with the same status, pay and seniority. This leave of absence shall, within the discretion of the employer, be with or without pay and shall be limited to one legislative term of 2 years.

§822. Exception for employer with 5 or fewer employees

This subchapter is not applicable if the employer employs 5 or fewer persons immediately prior to the first day of the leave of absence.

§823. Waiver of right

An employee who fails to provide the notice to his employer required by section 821 waives any rights to a leave of absence provided by this subchapter.

§824. Appeal by employer

1. Request. An employer who feels that granting the leave of absence required by this subchapter will cause unreasonable hardship for his business may appeal for relief by a written notice of appeal to the chairman of the State Board of Arbitration and Conciliation. If the notice of appeal is not filed within 14 days of receipt of the employee's notice requesting a leave of absence, the employer waives his right to appeal. The notice of appeal shall

state the name of the employee and the reasons for the alleged unreasonable hardship. This section provides the exclusive remedy for an employer claiming unreasonable hardship as a result of a request for leave of absence.

2. Proceedings. The chairman of the State Board of Arbitration and Conciliation, or any member of the board designated by the chairman, shall serve as an arbitrator of any case appealed under this section. The proceeding shall provide an opportunity for the employee to respond, orally or in writing, to the allegations contained in the appeal. Within 30 days of receipt of the notice of appeal, the arbitrator shall issue an order, binding on both parties, either affirming or denying the claim of unreasonable hardship. If the claim is affirmed, the employee is not entitled to a leave of absence under this subchapter. In reaching his decision, the arbitrator shall consider, but is not limited to, the following factors:

A. The length of time the employee has been employed by the employer;

B. The number of employees in the employer's business;

C. The nature of the employer's business;

D. The nature of the position held by the employee and the ease or difficulty and cost of temporarily filling the position during the leave of absence; and

E. Any agreement entered into between the employee and employer as a condition of employment.

Sec. 2. 26 MRSA §1221, sub-§3, ¶A, as amended by PL 1979, c. 651, §46, is further amended to read:

A. At the time the status of an employing unit is ascertained to be that of an employer, the deputy shall establish and thereafter maintain until such employer status is terminated, for each such employer an "experience rating record," to which shall be credited all the contributions which the employer thereafter pays on his own behalf. Nothing in this chapter shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund. Benefits paid to an eligible individual under the Maine Employment Security Law shall be charged against the "experience rating record" of the claimant's most

recent subject employer or to the General Fund if the otherwise chargeable "experience rating record" is that of an employer whose status as such has been terminated; except that no charge shall be made to an individual employer but shall be made to the General Fund if the commission finds that:

(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~~

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

(3) Benefits paid are not chargeable against any employer's experience rating record in accordance with section 1194, subsection 11, paragraphs B and C; ~~or~~

(5) Reimbursements are made to a state, the Virgin Islands or Canada for benefits paid to a claimant under a reciprocal benefits arrangement as authorized in section 1082, subsection 12; provided that the wages of the claimant transferred to such other state, the Virgin Islands or Canada under such arrangement are less than the amount of wages for insured work required for benefit purposes by section 1192, subsection 5-; or

(6) Claimant was hired by his last employer to fill a position left open by a Legislator given a leave of absence under chapter 7, subchapter V-A, and claimant's separation from this employer was because the employer restored the Legislator to the position after his leave of absence as required by chapter 7, subchapter V-A.

Effective September 23, 1983.

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## CHAPTER 129

H.P. 983 - L.D. 1284

AN ACT to Clarify the Definition of  
Approved Training in the Unemployment  
Compensation Program.