

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

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

cooperative is furnishing service on October 8, 1967. No consent may be required for the operation of a radio paging service. Any corporation authorized to make, generate, sell, distribute and supply electricity may sell and distribute electricity to any other corporation similarly authorized.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 18, 1983.

CHAPTER 305

S.P. 497 - L.D. 1503

AN ACT to Clarify, Simplify and Improve
Certain Sections of the Labor Laws of Maine.

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

Sec. 1. 26 MRSA §1051, sub-§5, as amended by PL 1981, c. 327, is further amended to read:

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to him as unemployment benefits, the amounts due from that person shall be collectible in the manner provided in subsection 6 or in the discretion of the commission the amount erroneously paid to such person may be deducted from any future benefits payable to him under this chapter. ~~Provided~~; provided that there shall be no recovery of payments from any person who, in the judgment of at least 2 ~~commissioners~~ commission members, is without fault on his part and where, in the judgment of the commission, such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. No recovery may be attempted until the determination of an erroneous payment is final as to law and fact and the individual has been notified of the opportunity for a waiver under this subsection.

Sec. 2. 26 MRSA §1191, sub-§2, as amended by PL 1981, c. 342, §1, is further amended to read:

2. Weekly benefit amount for total unemployment. Each eligible individual establishing a benefit year on and after January 1, 1972, who is totally unemployed in any week shall be paid with respect to such

week, benefits equal to 1/22 of the wages, rounded to the nearest dollar, paid to him in the high quarter of his base period, but not less than \$12. The maximum weekly benefit amount for claimants requesting insured status determination from June 1st of a calendar year to May 31st of the next calendar year shall not exceed 52% of the annual average weekly wage, rounded to the nearest dollar, paid in the calendar year preceding June 1st of such calendar year.

The amount of benefits payable to an eligible individual with respect to any week of total unemployment shall be reduced by the amount of any holiday pay which the individual has received or is entitled to receive for that week.

Sec. 3. 26 MRSa §1191, sub-§3, as amended by PL 1981, c. 342, §2, is further amended to read:

3. Weekly benefit for partial unemployment. 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 this weekly benefit amount less that part of his earnings, ~~including holiday pay,~~ paid or payable to him with respect to such week which is in excess of \$10 plus any fraction of a dollar, 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 volunteer fireman or as elected members of the Legislature, shall not be deemed wages for the purpose of this subsection.

On and after January 1, 1978, each eligible individual who, affirmatively terminated from his regular employment for a period in excess of 4 consecutive calendar weeks, is employed less than 40 hours for a period not exceeding 2 consecutive calendar weeks or performs odd jobs shall be paid an amount equal to his weekly benefit amount less:

A. 50% of his earnings paid or payable to him with respect to such week in excess of \$10 up to \$35, plus any fraction of a dollar; and

B. 100% of his earnings paid or payable to him with respect to such week in excess of \$35, plus any fraction of a dollar.

Sec. 4. 26 MRSa §1193, sub-§5, ¶A is amended to read:

A. Dismissal wages ~~or~~ wages in lieu of notice ~~or~~ terminal pay ~~or~~ vacation pay or holiday pay;
or

Sec. 5. 26 MRSA §1193, sub-§7, as amended by PL 1979, c. 428, §6, is further amended to read:

7. Discharged for crime. For the period of unemployment next ensuing with respect to which he was discharged for conviction of felony or misdemeanor in connection with his work. The ineligibility of such individual shall continue for all weeks subsequent until such individual has thereafter earned not less than ~~§400~~ §600 in employment by an employer.

Sec. 6. 26 MRSA §1194, sub-§10, as amended by PL 1981, c. 547, §1, is further amended to read:

10. Determination may be reconsidered; appeal. The deputy 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 he 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 redetermination 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 2. If the amount of benefits is decreased upon such redetermination, the matters involved in such decrease shall be subject to 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 2.

The deputy may reconsider a benefit payment for any particular week or weeks whenever he 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. Subject to subsection 11, unless the claimant files an appeal from such redetermination within ~~±5~~ 20 calendar days after such redetermination was mailed to his last known address, such redetermination shall be final.

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. 7. 26 MRSA §1195, sub-§3-C, ¶C, as enacted by PL 1981, c. 228, is amended to read:

C. No individual may be denied extended benefits for failure to accept an offer of or apply for any job which meets the definition of suitability described in this subsection if:

(1) The position was not offered to the individual in writing and or was not listed with the employment service;

(2) The failure could not result in a denial of benefits under the definition of suitable work for regular benefit claimants in section 1193, subsection 3 to the extent that the criteria of suitability in that section are not inconsistent with this subsection; and

(3) The individual furnishes satisfactory evidence to the deputy that his prospects for obtaining work in his customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual shall be made in accordance with the definition of suitable work for regular benefit claimants in section 1193, subsection 3 without regard to the definition specified by this subsection.

Sec. 8. 26 MRSA §1401, 2nd ¶, as amended by PL 1981, c. 168, §§20 and 26, is further amended to read:

The Commissioner of Labor shall receive a fixed weekly salary in accordance with Title 2, section 6, and shall be paid from the administrative funds of the Maine Employment Security Commission, Bureau of Employment Security, the Bureau of Labor Standards and from other program administrative funds which he is authorized by statute or Executive Order to administer. The commissioner may establish an Office of the Commissioner, consisting of such personnel as deemed necessary to carry out the duties and responsibilities of the commissioner and paid from adminis-

trative funds from programs the commissioner is authorized to administer.

Effective September 23, 1983.

CHAPTER 306

H.P. 1160 - L.D. 1531

AN ACT to Amend Mandatory Zoning and Subdivision Control.

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

Sec. 1. 12 MRSA §4814, as amended by PL 1979, c. 672, Pt. A, §49, is further amended to read:

§4814. Cooperation

The Board of Environmental Protection and the Maine Land Use Regulation Commission, municipalities and all state agencies shall mutually cooperate to accomplish the objectives of this chapter. To that end, the board and the commission shall consult with the governing bodies of municipalities and to whatever extent necessary with other state agencies to secure voluntary uniformity of regulations, so far as practicable, and shall extend all possible assistance therefor. The State Planning Office shall be responsible for coordinating the efforts and responsibilities of the Board of Environmental Protection and the Maine Land Use Regulation Commission acting pursuant to this chapter.

If a municipality fails to administer and enforce zoning ordinances adopted by it or the State, pursuant to the requirements of this chapter, the Attorney General shall seek an order of the Superior Court of the county in which the municipality lies, requiring the municipal officials to enforce such zoning ordinance. ~~The district attorney may enforce the provisions of a local shoreland zoning ordinance upon the request of an authorized municipal official.~~ The Attorney General shall be made a party to all civil and criminal actions in which the pleadings challenge the legality of any ordinance or portion thereof adopted pursuant to the guidelines promulgated under section 4813.

Sec. 2. 12 MRSA §4815 is enacted to read: