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Legislative Document

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H.P. 1024

House of Representatives, December 23, 2015

An Act To Amend the Law Regarding Disqualification for Unemployment Benefits during Stoppages of Work

(EMERGENCY)

Submitted by the Department of Labor pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2015. Referred to the Committee on Labor, Commerce, Research and Economic Development pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative STETKIS of Canaan.
Cosponsored by Senator CUSHING of Penobscot and
Representatives: HARRINGTON of Sanford, ORDWAY of Standish, SIROCKI of
Scarborough, Senator: BRAKEY of Androscoggin.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** stoppages of work may occur at any time; and

4 **Whereas,** it is necessary to ensure that the employment security law does not
5 penalize employers who are required to maintain ongoing operations in emergency
6 conditions or to maintain the provision of necessary services; and

7 **Whereas,** the intent of this legislation is to prevent payments from the
8 Unemployment Compensation Fund to certain individuals for the purposes of ensuring
9 the highest possible balance in the fund and lowering taxes on employers; and

10 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
11 the meaning of the Constitution of Maine and require the following legislation as
12 immediately necessary for the preservation of the public peace, health and safety; now,
13 therefore,

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

15 **Sec. 1. 26 MRSA §1193, sub-§4,** as amended by PL 1997, c. 391, §1, is further
16 amended to read:

17 **4. Stoppage of work.** For any week with respect to which the deputy, after
18 notification by the Director of Unemployment Compensation under section 1194,
19 subsection 2, finds that the claimant's total or partial unemployment is due to a stoppage
20 of work that exists because of a labor dispute at the factory, establishment or other
21 premises at which the claimant is or was employed, ~~or there would have been a stoppage~~
22 ~~of work had substantially normal operations not been maintained with other personnel~~
23 ~~previously and currently employed by the same employer and any other additional~~
24 ~~personnel that the employer may hire to perform tasks not previously done by the striking~~
25 ~~employees.~~ This subsection does not apply if it is shown to the satisfaction of the deputy
26 that:

27 A. The claimant is not participating in or financing or directly interested in the labor
28 dispute that caused the stoppage of work;

29 B. The claimant does not belong to a grade or class of workers of which,
30 immediately before the commencement of the stoppage there were members
31 employed at the premises at which the stoppage occurs, any of whom are
32 participating in or financing or directly interested in the dispute;

33 C. The claimant has obtained employment subsequent to the beginning of the
34 stoppage of work and has earned at least 8 times the claimant's weekly benefit
35 amount in employment by an employer or has been in employment by an employer
36 for 5 full weeks;

37 D. The claimant became unemployed because of a strike or lockout caused by an
38 employer's willful failure to observe the terms of the safety and health section of a
39 union contract; an employer's willful failure to comply in a timely fashion with an

1 official citation for a violation of federal and state laws involving occupational safety
2 and health; or the quitting of labor by an employee or employees in good faith
3 because of an abnormally dangerous condition for work at the place of employment
4 of that employee or employees; provided that the strike or lockout does not extend
5 past the time of the employer's compliance with the safety and health section of the
6 union contract, the employer's compliance with the official citation or the finding that
7 an abnormally dangerous condition does not exist by a federal or state official
8 empowered to issue official citations for violation of federal and state laws involving
9 occupational safety and health; or

10 E. The claimant became unemployed because of a lockout by the employer. For
11 purposes of this subsection, the word "lockout" means the withholding of
12 employment by an employer from its employees for the purpose of resisting their
13 demands or gaining a concession from them.

14 If in any case separate branches of work that are commonly conducted as separate
15 businesses in separate premises are conducted in separate departments of the same
16 premises, each department must, for the purposes of this subsection, be deemed to be a
17 separate factory, establishment or other premises;

18 **Emergency clause.** In view of the emergency cited in the preamble, this
19 legislation takes effect when approved.

20 **SUMMARY**

21 This bill removes the provision of law affecting the disqualification for
22 unemployment benefits of employees at an establishment at which there is a labor dispute
23 and at which there would have been a work stoppage but for the employer's maintaining
24 substantially normal operations through the use of other personnel.