

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

S.P. 589 - L.D. 1725

**An Act To Strengthen the Unemployment Insurance Laws and Reduce
Unemployment Fraud**

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

Sec. 1. 26 MRSA §1051, sub-§1, as amended by PL 1983, c. 118, is further amended to read:

1. False statement or representation. A person is guilty of unemployment fraud if ~~he~~ that person 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~~ constitutes a separate offense. Unemployment fraud is ~~a Class D crime~~ theft by deception under Title 17-A, section 354.

Sec. 2. 26 MRSA §1192, sub-§2, as repealed and replaced by PL 1975, c. 25, is amended to read:

2. Has registered for work. ~~He~~ The individual has registered for work at, and ~~thereafter~~ continued to report at, an employment office in accordance with ~~such regulations as~~ rules the commission ~~may prescribe~~ adopts, except that the commission may, by ~~regulation~~ rule, waive or alter either or both of the requirements of this subsection as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which ~~it~~ the commission finds that compliance with ~~such~~ the requirements would be oppressive, or would be inconsistent with the purposes of this

~~chapter. No such regulation shall~~ A rule under this subsection may not conflict with section 1191, subsection 1;

The individual must actively seek work each week in which a claim for benefits is filed unless the individual is participating in approved training under subsection 6 or work search has been waived in accordance with rules adopted by the commission and provide evidence of work search efforts in a manner and form as prescribed by the commission. Failure to provide required work search documentation results in a denial of benefits in accordance with section 1194, subsection 2 for the week or weeks for which no documentation was provided unless the commission determines there is good cause for the individual's failure to comply with this requirement;

Sec. 3. 26 MRSA §1192, sub-§12, as corrected by RR 1995, c. 1, §23, is amended to read:

12. Participation in reemployment services. The individual who has been referred to reemployment services, pursuant to a profiling system established by the commissioner, participates in those services or similar services unless it is determined that the individual has completed those services or there is good cause for the individual's failure to participate-; and

~~For purposes of this subsection, "good cause" means all circumstances described in the definition of good cause in Chapter 1 of the rules governing the administration of the Employment Security Law, including child care emergencies and transportation emergencies.~~

Sec. 4. 26 MRSA §1192, sub-§13 is enacted to read:

13. Reemployment eligibility assessment services; participation. In the case that the individual has been referred to reemployment eligibility assessment services by the Department of Labor, the individual participates in those services, unless the department determines there is good cause for the individual's failure to participate. Failure to participate in reemployment eligibility assessment services without good cause results in a denial of benefits until the individual participates.

Sec. 5. 26 MRSA §1192, as amended by PL 2009, c. 271, §3 and c. 466, §2, is further amended by adding at the end a new paragraph to read:

For purposes of subsections 2, 3, 12 and 13, "good cause" means the unemployed individual is ill; the presence of the unemployed individual is required due to an illness of the unemployed individual's spouse, children, parents, stepparents, brothers or sisters, or relatives who have been acting in the capacity of a parent of either the unemployed individual or the unemployed individual's spouse; the unemployed individual is in attendance at the funeral of such a relative; the unemployed individual is observing a religious holiday as required by religious conviction; the unemployed individual is performing either a military or civil duty as required by law; or other cause of a necessitous and compelling nature, including child care emergencies and transportation emergencies. "Good cause" does not include incarceration as a result of a conviction for a felony or misdemeanor.

Sec. 6. 26 MRSA §1193, sub-§2, as amended by PL 1979, c. 651, §§46 and 47, is further amended to read:

2. Discharge for misconduct. For the week in which ~~he~~ the individual has been discharged for misconduct connected with ~~his~~ the individual's work, if so found by the deputy, and disqualification ~~shall continue~~ continues until claimant has earned ~~4~~ 8 times ~~his~~ the claimant's weekly benefit amount in employment by an employer.

A. For the duration of any period for which ~~he~~ the individual has been suspended from ~~his~~ the individual's work by ~~his~~ the individual's employer as discipline for misconduct, if so found by the deputy, or until the claimant has earned ~~4~~ 8 times ~~his~~ the claimant's weekly benefit amount in employment by an employer;

Sec. 7. 26 MRSA §1193, sub-§3, as amended by PL 1983, c. 650, §1, is further amended to read:

3. Refused to accept work. For the duration of ~~his~~ the individual's unemployment subsequent to ~~his~~ the individual's having refused to accept an offer of suitable work for which ~~he~~ the individual is reasonably fitted, or having refused to accept a referral to a suitable job opportunity when directed to do so by a local employment office of this State or another state or if an employer is unable to contact a former employee at last known or given address, for the purpose of recall to suitable employment; or the individual fails to respond to a request to report to the local office for the purpose of a referral to a suitable job, and the disqualification ~~shall continue~~ continues until claimant has earned ~~8~~ 10 times ~~his~~ the claimant's weekly benefit amount in employment by an employer. If the deputy determines that refusal has occurred for cause of necessitous and compelling nature, the individual ~~shall be~~ is ineligible while such inability or unavailability continues, but ~~shall~~ be is eligible to receive prorated benefits for that portion of the week during which ~~he~~ the individual was able and available.

A. In determining whether or not any work is suitable for an individual during the first ~~12~~ 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to ~~his~~ the individual's health, safety and morals, ~~his~~ the individual's physical fitness and prior training, ~~his~~ the individual's experience and prior earnings, ~~his~~ the individual's length of unemployment and prospects for securing local work in ~~his~~ the individual's customary occupation; and the distance of the available work from ~~his~~ the individual's residence.

In determining whether or not work is suitable for an individual after the first ~~12~~ 10 consecutive weeks of unemployment, the deputy shall consider the degree of risk involved to ~~his~~ the individual's health, safety and morals, ~~his~~ the individual's physical fitness, ~~his~~ the individual's prior earnings, ~~his~~ the individual's length of unemployment and prospects for securing local work in ~~his~~ the individual's customary occupation and the distance of the available work from ~~his~~ the individual's residence. The individual's prior earnings ~~shall~~ may not be considered with respect to an offer of or referral to an otherwise suitable job ~~which~~ that pays wages equal to or exceeding the average weekly wage in the State of ~~Maine~~.

B. Notwithstanding any other provisions of this chapter, work ~~shall~~ may not be ~~deemed~~ considered suitable and benefits ~~shall~~ may not be denied under this chapter to

any otherwise eligible individual for refusing to accept new work under any of the following conditions:

- (1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;
- (2) If the wages, hours or other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality;
- (3) If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;
- (4) If the position offered is the same one previously vacated by the claimant for good cause attributable to that employment or is the position ~~which~~ that the employee left for reasons attributable to that employment, but which were found insufficient to relieve disqualification for benefits under subsection 1, paragraph A, ~~provided that~~ as long as, in either instance, the specific good cause or specific reasons for leaving have not been removed or otherwise changed; and
- (5) If the position offered is on a shift, the greater part of which falls between the hours of midnight ~~to~~ and 5 a.m., and is refused because of parental obligation, the need to care for an immediate family member, or the unavailability of a personal care attendant required to assist the unemployed individual who is a handicapped person;

Sec. 8. 26 MRSA §1193, sub-§5, as amended by PL 2009, c. 638, §1, is further amended to read:

5. Receiving remuneration. For any week with respect to which ~~he~~ the individual is receiving, ~~is entitled~~ has been scheduled to receive or has received remuneration in the form of:

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

A-1. Any vacation pay in an amount exceeding the equivalent of 4 weeks' wages for that individual; or

B. Benefits under the unemployment compensation or employment security law of any state or similar law of the United States.

If the remuneration under paragraph A is less than the benefits ~~which~~ that would otherwise be due under this chapter, ~~he shall be~~ the individual is entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of the remuneration, rounded to the nearest lower full dollar amount. Earned vacation pay that is paid to the individual prior to the individual's being notified orally or in writing by the employer of the employer's intent to sever the employment relationship is not considered remuneration for purposes of this subsection;

Sec. 9. 26 MRSA §1193, sub-§6, as amended by PL 1999, c. 464, §7, is further amended to read:

6. Has falsified. For any week for which the deputy finds that the claimant made a false statement or representation knowing it to be false or knowingly failed to disclose a material fact in the claimant's application to obtain benefits. In addition, for a first or 2nd occurrence, the claimant is ineligible to receive any benefits for a period of not less than 6 months nor more than one year from the mailing date of the determination, and the commissioner shall assess a penalty of 50% of the benefits falsely obtained for the first occurrence; and 75% for the 2nd occurrence ~~and 100% for the 3rd and any subsequent occurrences.~~ If an individual is disqualified for a 3rd occurrence of statement falsification or misrepresentation in an effort to obtain benefits, the commissioner shall assess a penalty of 100% of the benefits falsely obtained and the claimant is disqualified from receiving benefits for a period of time to be determined by the commissioner; ~~or~~

Sec. 10. Interdepartmental cooperation. The Department of Labor shall work with the United States Department of Labor to explore allowing alternatives for individuals for whom in-person participation in the first reemployment eligibility assessment session is unduly burdensome based on travel distance and shall adopt standards to implement any allowable and feasible alternatives. If permitted by the Federal Government, the department shall develop standards and procedures to provide alternatives to in-person participation for all subsequent reemployment eligibility assessment sessions for individuals for whom travel to such sessions would be unduly burdensome. Waiver of in-person participation in services must be made on a case-by-case basis in accordance with standards adopted by the department. If alternatives to in-person participation are allowed and are available, the department shall notify all individuals affected by this section of any standards or procedures providing an alternative to in-person participation in reemployment eligibility assessment services.

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor