

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND EIGHTEEN

—
H.P. 491 - L.D. 700

An Act To Give Flexibility to Employees and Employers for Temporary Layoffs

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

Whereas, the number of individuals about to enter temporary unemployment in the State is due to increase dramatically, based on cyclical data from the Department of Labor; and

Whereas, the provisions in this legislation provide additional relief for individuals entering temporary unemployment with a definite recall date from their employer; and

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

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

Sec. 1. 26 MRSA §1192, sub-§3, as amended by PL 2007, c. 352, Pt. C, §1, is further amended to read:

3. Is able and available for work. The individual is able to work and is available for full-time work at the individual's usual or customary trade, occupation, profession or business or in such other trade, occupation, profession or business for which the individual's prior training or experience shows the individual to be fitted or qualified, as long as the geographic region in which the work will take place is not greater than 35 miles from the individual's primary residence; and in addition to having complied with subsection 2 is actively seeking work in accordance with the regulations of the commission; provided that no ineligibility may be found solely because the claimant is unable to accept employment on a shift, the greater part of which falls between the hours of midnight to 5 a.m., and is unavailable for that employment 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; and provided that an unemployed individual who is neither able nor available for work due to good cause as determined by the deputy is eligible to receive prorated benefits for that portion of the week during which the individual was able and available.

A. Notwithstanding this subsection, beginning January 1, 2004, an individual who is not available for full-time work as required in this subsection is not disqualified from receiving benefits if:

(1) The individual worked less than full time for a majority of the weeks during that individual's base period and the individual is able and available for and actively seeking part-time work for at least the number of hours in a week comparable to those customarily worked in part-time employment during that individual's base period; or

(2) The individual worked full time for a majority of the weeks during that individual's base period, but is able and available for and actively seeking only part-time work because of the illness or disability of an immediate family member or because of limitations necessary for the safety or protection of the individual or individual's immediate family member.

Sec. 2. 26 MRSA §1192, sub-§12, as amended by PL 2011, c. 645, §3, is further 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~~

Sec. 3. 26 MRSA §1192, sub-§13, as amended by PL 2017, c. 117, §5, is further amended to read:

13. Reemployment services and eligibility assessment; participation. In the case that the individual has been referred to reemployment services and eligibility assessment 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 services and eligibility assessment without good cause results in a denial of benefits until the individual participates; ~~and~~

Sec. 4. 26 MRSA §1192, sub-§14 is enacted to read:

14. Temporary unemployment; work search. Notwithstanding any other provisions of this chapter to the contrary, any otherwise eligible individual who is temporarily laid off by an employer that has given that individual a definite recall date may not be denied benefits for any week based on the individual's failure to meet the requirements of subsection 2 or 3 for a period of 6 weeks during that temporary layoff, so long as the individual remains in contact with and able and available to work for that employer.

An individual may not receive more than 6 weeks of benefits in a benefit year pursuant to this subsection unless approved by the Department of Labor.

Sec. 5. 26 MRSA §1192, last ¶, as enacted by PL 2011, c. 645, §5, is amended 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. If an unemployed individual has completed reemployment services and eligibility assessment with the Department of Labor within the prior 5 years, that individual is considered to have good cause for not participating in reemployment services and eligibility assessment under subsections 12 and 13. "Good cause" does not include incarceration as a result of a conviction for a felony or misdemeanor.

Sec. 6. Report by Department of Labor regarding effects of changes to work search requirements. The Department of Labor shall examine the effect on the State's account in the federal Unemployment Trust Fund established pursuant to the federal Social Security Act, Section 904 as a result of the enactment of the Maine Revised Statutes, Title 26, section 1192, subsection 14 creating an exemption from work search requirements for temporarily laid off employees, referred to in this section as "the exemption."

The department shall compile the results of its examination under this section, including aggregate data regarding:

1. The number of employees who were eligible for the exemption and the number of employers of those employees;
2. The number of employees who were paid benefits due to the exemption, the number of employers of those employees and the dollar amount of those benefits paid from the Unemployment Trust Fund; and
3. The number of employees who were approved by the department to receive more than 6 weeks of paid benefits in a benefit year pursuant to the exemption, the number of employers of those employees and the dollar amount of those benefits paid from the Unemployment Trust Fund.

The department shall report to the joint standing committee of the Legislature having jurisdiction over labor matters no later than January 15, 2021 with the results of the examination under this section, including the aggregate data under subsections 1, 2 and 3. The joint standing committee may report out a bill related to the report to the First Regular Session of the 130th Legislature.

Sec. 7. Appropriations and allocations. The following appropriations and allocations are made.

LABOR, DEPARTMENT OF

Employment Security Services 0245

Initiative: Allocates one-time funds for the cost of making computer programming updates to implement changes to the eligibility requirements for unemployment benefits.

FEDERAL EXPENDITURES FUND	2017-18	2018-19
All Other	\$0	\$71,200
FEDERAL EXPENDITURES FUND TOTAL	<u>\$0</u>	<u>\$71,200</u>

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