

§1051. Penalties

1. False statement or representation. A person is guilty of unemployment fraud if 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; [PL 1979, c. 515, §9 (NEW).]
- B. To prevent or reduce the payment of unemployment benefits to any individual; [PL 1979, c. 515, §9 (NEW).]
- C. To avoid becoming or remaining an employer under this chapter; or [PL 1983, c. 118 (AMD).]
- D. To avoid or reduce any contribution or other payment required from an employing unit under this chapter. [PL 1979, c. 515, §9 (NEW).]

Each false statement or representation or failure to disclose a material fact constitutes a separate offense. Unemployment fraud is theft by deception under Title 17-A, section 354. [PL 2011, c. 645, §1 (AMD).]

2. Separate offense. Any person who willfully fails or refuses to make any contributions or other payments, to furnish any reports required by this chapter or to produce or permit the inspection or copying of records as required is guilty of a Class D crime. Each failure or refusal shall constitute a separate offense. For purposes of this paragraph, "person" means an individual, corporation or partnership or an officer or employee of any corporation, including a dissolved corporation, or a member or employee of any partnership who was, at the time of the violation, under a duty to comply with this paragraph. [PL 1985, c. 348, §3 (AMD).]

3. Class E crime. Any person who willfully violates any provision of this chapter or any regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, is guilty of a Class E crime. [PL 1983, c. 118 (AMD).]

4. Nondisclosure or misrepresentation to receive benefits. Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact, and such nondisclosure or misrepresentation was known to him or ought to have been known by him to be fraudulent, has received any sum as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his case, or while he was disqualified from receiving benefits, shall either be liable to have such sum deducted from any future benefits payable to him under this chapter or shall be liable to repay to the bureau for the Unemployment Compensation Fund, a sum equal to the amount so received by him, and such sum shall be collectible in the manner provided in subsection 6. [PL 1979, c. 651, §44 (AMD).]

5. Refusal to repay erroneous payments; waiver of repayment. If, after due notice, any person refuses to repay amounts erroneously paid to that person as unemployment benefits, the amounts due from that person are collectible in the manner provided in subsection 6 or in the discretion of the commissioner or the commissioner's designee, the amount erroneously paid to such person may be deducted from any future benefits payable to that person under this chapter; except that there is no recovery of payments from any person who, in the judgment of the commissioner or the commissioner's designee, is without fault and when, in the judgment of the commissioner or the commissioner's designee, 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.

[PL 2021, c. 456, §6 (AMD).]

6. Collection of erroneous payments or payments received by nondisclosure or misrepresentation. Any amounts of benefit payments owed to the commissioner by any individual may be collected by any of the following methods.

A. The amount due may be collected by civil action in the name of the commissioner. [PL 1983, c. 351, §5 (AMD).]

B. If any amount of benefit payments owed to the commissioner is not paid when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision, the amount due may be collected by warrant as follows.

(1) The commissioner may file in the office of the clerk of the Superior Court of Kennebec County a certificate addressed to the clerk specifying the amount of benefit payments required to be paid and the weeks involved, the name and address of the liable person as it appears on the records of the bureau, the facts whereby the amount has become final as to law and fact and requesting that a warrant be issued against the person for the amount required to be paid, and with costs, but without interest.

(2) When the certificate is filed, the clerk of the Superior Court shall issue a warrant in favor of the bureau against the person for the amount required to be paid and with costs. The clerk shall file the certificate in a separate docket entitled "Special Warrants for Unemployment Compensation Benefit Payments." These records are not to become a part of the extended record of the court.

(3) The warrant shall have the force and effect of an execution issued upon a judgment in a civil action, may be substantially the same as the form in section 1230, subsection 4, paragraph A, and shall specify the amount of benefit payments required to be paid and the weeks involved.

(4) Warrants shall be returnable within one year, and new warrants may be issued on any such certificate within 4 years from the return day of the last preceding warrant for sums remaining unsatisfied. [PL 1979, c. 651, §§11, 12 (AMD).]

C. If the amount of benefit payments owed to the commissioner, as a result of nondisclosure or misrepresentation, when the decision establishing or a decision upholding the establishment of the debt has become final as to law and fact under section 1194 is over \$100, and if the amount of benefit payments due was set forth on a notice duly mailed to the individual following the finality of the last decision and the individual has failed to make payments for 90 days, the amount due may be collected by an order to withhold and deliver as follows.

(1) The commissioner may serve on any person an order to withhold and deliver wages that are due or belong to the individual. Any person served with an order to withhold and deliver shall answer the order within 20 days of receipt of the order.

(2) Before implementation of the order to withhold, the individual must be served with a notice of intention to withhold weekly earnings.

(3) If the individual requests review by the commission of a notice of debt accrued or seeks relief in a court of proper jurisdiction, and if the Department of Labor receives the request or service of pleadings within 21 days after service of the notice of debt, it shall stay the collection action. The Department of Labor shall accept ordinary mail service of copies of all pleadings, which must be addressed to the Department of Labor representative whose name appears on

the face of the notice of debt. Service upon the Department of Labor must be in addition to any other service required under the Maine Rules of Civil Procedure.

(4) Upon receipt of an order to withhold issued by the Department of Labor, the employer or other payor shall immediately begin withholding from the income of the responsible individual 10% of gross wages, except that the amount withheld may not exceed an amount by which the individual's disposable earnings are reduced to a weekly equivalent of 40 times the federal hourly minimum wage prescribed by 29 United States Code, Section 206(a)(1). Sums withheld must be remitted to the Department of Labor within 10 days of the date the individual is paid. Any person who honors an order to withhold issued under this section is discharged from any liability or obligation to the individual for the amount of the wages withheld.

(5) The withholding may be terminated with regard to a current obligation only upon notification by the commissioner.

(6) An employer may not discharge an employee because a lien or order to withhold and deliver has been served against the employee's earnings. An aggrieved employee may maintain a civil action against that employee's employer for violation of this subparagraph. [PL 1997, c. 434, §1 (NEW).]

[PL 1997, c. 434, §1 (AMD).]

7. Limitation on recovery. Deduction from benefits that may be or may become payable to an individual as provided for in subsection 5 is limited to not more than 10% of the first \$100 and 50% of any amount above \$100 of any weekly benefit payment otherwise due the claimant.

[PL 1999, c. 464, §3 (AMD).]

8. Setoff of debts against lottery winnings. Lottery winnings may be offset for benefit payments owed to the commissioner in accordance with this subsection.

A. The commissioner shall provide the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this paragraph as the "bureau," access to an electronic database of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action. Before paying any state lottery winnings of an amount equal to or greater than the amount for which the bureau is required to file a Form W-2G or substantially equivalent form with the United States Internal Revenue Service, the bureau shall determine whether the lottery winner owes to the State an unemployment compensation debt that has been liquidated by judicial or administrative action. If the bureau determines that the winner owes unemployment compensation debts, the bureau shall suspend payment of winnings and notify the winner of its intention to offset the winner's unemployment compensation debt against the winnings. The bureau shall release any remaining winnings to the winner. The bureau shall notify the winner of the winner's right to appeal to the Commissioner of Labor pursuant to Title 5, chapter 375. The winner must appeal in writing within 15 days of receipt of that notice. The hearing is limited to the questions of whether the debt is liquidated and whether postliquidation events have affected the winner's liability. The decision of the Department of Labor as to the existence of a liquidated debt constitutes final agency action.

[PL 2021, c. 543, §3 (AMD).]

B. The commissioner shall periodically notify the Tri-state Lotto Commission of all persons who owe the Department of Labor an unemployment compensation debt that has been liquidated by judicial or administrative action. [PL 1997, c. 434, §2 (NEW).]

[PL 2021, c. 543, §3 (AMD).]

9. Interest on overpayments. A benefit overpayment established in a determination rendered under section 1193, subsection 6 accrues interest at the rate of 1.0% per month or per fraction of a month from the first of the month following the date the determination establishing the benefit overpayment becomes final until payment plus accrued interest is received by the bureau.

[RR 2021, c. 2, Pt. A, §92 (COR).]

10. Application of benefit repayments. Amounts received through any means to repay benefit payments owed to the commissioner must be applied first to any outstanding penalties, 2nd to any outstanding interest and 3rd to any benefit payments owed to the commissioner.

[PL 1999, c. 464, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 419 (AMD). PL 1975, c. 462, §2 (AMD). PL 1975, c. 710, §3 (AMD). PL 1977, c. 460, §§1-3 (AMD). PL 1979, c. 515, §9 (AMD). PL 1979, c. 579, §§9-11,43 (AMD). PL 1979, c. 651, §§10-12,44, 47 (AMD). PL 1981, c. 284 (AMD). PL 1981, c. 327 (AMD). PL 1983, c. 118 (AMD). PL 1983, c. 305, §1 (AMD). PL 1983, c. 351, §5 (AMD). PL 1985, c. 348, §3 (AMD). PL 1997, c. 293, §4 (AMD). PL 1997, c. 434, §§1,2 (AMD). PL 1999, c. 464, §§3,4 (AMD). PL 2011, c. 645, §1 (AMD). PL 2021, c. 456, §§6, 7 (AMD). PL 2021, c. 543, §3 (AMD). RR 2021, c. 2, Pt. A, §92 (COR).

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