

SENATE No. 225

To accompany the petition of William G. Sutcliffe, for the State Advisory Council, Division of Employment Security, for legislation to make certain changes in the employment security law. Labor and Industries.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-Seven.

AN ACT MAKING CERTAIN CHANGES IN THE EMPLOYMENT SECURITY LAW, AND FOR SUCH FURTHER LEGISLATION RELATIVE THERETO AS THE GENERAL COURT OR ITS COMMITTEES MAY DEEM EXPEDIENT AND PROPER.

1 *Whereas*, The deferred operation of this act, which in
2 part is to bring the provisions of the employment secur-
3 ity law in conformity with the recent amendments to
4 the United States Internal Revenue Code, would tend
5 to prevent the proper administration of the employ-
6 ment security law, therefor, it is declared to be an
7 emergency law, necessary for the immediate preserva-
8 tion of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 151A of the Gen-
2 eral Laws, as appearing in section 1 of chapter 685 of
3 the acts of 1941, is hereby amended by striking out
4 paragraph (1), subsection (s), and by renumbering

5 paragraphs 2, 3 and 4 of said subsection (s) to (1), (2)
6 and (3), respectively, — so as to read as follows: —

7 (s) “Wages”, every form of remuneration of an
8 employee subject to this chapter for employment by
9 an employer, whether paid directly or indirectly, in-
10 cluding salaries, commissions and bonuses, and rea-
11 sonable cash value of board, rent, housing, lodging,
12 payment in kind and all remuneration paid in any
13 medium other than cash; except that such term shall
14 not include —

15 (1) Any payment made by an employer to an em-
16 ployee on account of separation from the service of the
17 employer, provided the employer is not legally bound
18 by contract, statute or otherwise, to make such
19 payment.

20 (2) The amount of any payment made to, or on
21 behalf of, an employee under a plan or system es-
22 tablished by an employer which makes provision for
23 his employees generally or for a class or classes of his
24 employees (including any amount paid by an employer
25 for insurance or annuities, or into a fund, to provide
26 for any such payment or under a pension plan), on
27 account of retirement, or sickness or accident dis-
28 ability, or medical and hospitalization expenses in con-
29 nection with sickness or accident disability, or death,
30 provided the employee has not the option to receive,
31 instead of provision for such death benefit, any part
32 of such payment or, if such death benefit is insured,
33 any part of the premium (or contributions to pre-
34 miums) paid by his employer, and has not the right,
35 under the provisions of the plan or system or policy
36 of insurance providing for such death benefits, to
37 assign such benefit, or to receive a cash consideration
38 in lieu of such benefit either upon his withdrawal

39 from the plan or system providing for such benefit
40 or upon termination of such plan or system or policy
41 of insurance or of his employment with such employer.

42 (3) The payment by an employer (without deduc-
43 tion from the remuneration of the employee) of the
44 tax imposed upon an employee under section four-
45 teen hundred of the Federal Internal Revenue Code,
46 or any acts in addition thereto and amendments
47 thereof.

1 SECTION 2. Section 14 of said chapter 151A is
2 hereby further amended by striking out lines 1 to 7,
3 inclusive, and inserting in place thereof the follow-
4 ing: — *Section 14.* Each employer shall make con-
5 tributions for each year at the applicable rate as set
6 forth in this section on so much of his pay roll as is
7 subject to this chapter; provided, that for the purposes
8 of this section the term “wages” shall not include
9 (1) that part of the remuneration which, after
10 remuneration equal to three thousand dollars has
11 been paid to an individual with respect to employment
12 during any calendar year, is paid to such individual
13 prior to January first, nineteen hundred and forty-
14 seven with respect to employment during such cal-
15 endar year; (2) that part of the remuneration which,
16 after remuneration equal to three thousand dollars
17 with respect to employment has been paid to an indi-
18 vidual during any calendar year after nineteen hun-
19 dred and forty-six, is paid to such individual during
20 such calendar year.

1 SECTION 3. Subsection 14 (a) of said chapter 151A
2 is hereby amended by striking out all after the word
3 “cent” in the third line and placing after the word

4 “cent” a period, so that said subsection shall read as
5 follows:— (a) If no rate of contribution under sub-
6 section (b) of this section applies, each employer shall
7 make contributions for each year at the rate of two
8 and seven tenths per cent.

1 SECTION 4. Section 44 of said chapter 151A is
2 hereby amended by striking out subsection (b) and
3 inserting in place thereof the following subsection:—
4 (b) The director shall maintain suitable records for
5 each employee on which may be recorded that part of
6 his quarterly wages subject to contributions and such
7 other pertinent information as the director may
8 prescribe.

1 SECTION 5. Chapter 151A of the General Laws,
2 as appearing in section 1 of chapter 685 of the acts of
3 1941, is hereby amended by striking out section 46
4 and inserting in place thereof the following:—
5 *Section 46.* Information secured pursuant to this
6 chapter shall be confidential and for the exclusive use
7 and information of the division in the discharge of
8 its duties hereunder. Such information shall not be
9 open to the public, nor shall it be used in any action or
10 proceeding unless the division is a party to such action
11 or proceeding. Whoever, except with authority of
12 the director or pursuant to his rules and regulations,
13 or as otherwise required or authorized by law, shall
14 disclose the same, shall be punished by a fine of not
15 more than one hundred dollars or by imprisonment
16 for not more than six months, or both; provided, that
17 nothing herein shall be construed to prevent the
18 director from complying with the provisions of section
19 sixty-four or from conducting any investigation he

20 deems relevant in connection herewith, nor to prevent
21 the director from publishing in statistical form the
22 results of any such investigations without disclosing
23 the identity of the individuals involved.

24 (a) All information transmitted to the director or
25 his duly authorized representatives pursuant to this
26 chapter shall be absolutely privileged and shall not be
27 made the subject matter or basis in any action of
28 slander or libel in any court of the commonwealth.

1 SECTION 6. Subsection (f) of section 66 of said
2 chapter 151A is hereby amended by striking out, in
3 the third line, the word "exercises" and inserting in
4 place thereof the word: — exercise, — so as to read
5 as follows: — (f) The director is hereby authorized
6 to make such investigations, secure and transmit such
7 information, make available such services and facilities
8 and exercise such of the other powers provided herein
9 with respect to the administration of this chapter as
10 he deems necessary or appropriate to facilitate the
11 administration of any such unemployment compen-
12 sation or public employment service law, and in like
13 manner, to accept and utilize information, services
14 and facilities made available to this commonwealth
15 by the agency charged with the administration of any
16 such other unemployment compensation or public
17 employment service law.

1 SECTION 7. Subsection (c) of section 2 of chapter
2 701 of the acts of 1941 is hereby amended by striking
3 out, in the twelfth line, the word "twenty" and in-
4 serting in place thereof the word: — twenty-three, —
5 so as to read as follows: — (c) The aggregate amount
6 of benefits and weekly benefit rate for unemployment

7 under subsections (a) and (b) of this section shall
8 apply for the remainder of the benefit year, as defined
9 in said chapter 151A, in effect at the time of such per-
10 son's release from active military or naval service
11 and the balance of such aggregate amount of benefits
12 to his credit at the end of such benefit year, as "bene-
13 fit year" is so defined, and the weekly benefit rate for
14 unemployment shall apply for the first full benefit
15 year after termination of active military or naval
16 service; provided, that in no benefit year shall benefits
17 be paid in an amount more than twenty-three times
18 the weekly benefit rate.

1 SECTION 8. Section 15 of chapter 151A of the Gen-
2 eral Laws, as appearing in section 1 of chapter 685
3 of the acts of 1941, and as amended by chapter 373
4 of the acts of 1943, is hereby further amended by
5 striking out subsection (b) and inserting in place
6 thereof the following: —

7 (b) The director may collect such overdue amounts,
8 together with such interest or penalty, in an action of
9 contract or by petition for entry of judgment in the
10 name of the commonwealth commenced within four
11 years from January thirty-first next succeeding the
12 last day of the calendar year in which wages were paid.

13 Notwithstanding the provisions of this subsection,
14 if the director believes that the collection of con-
15 tributions, interest or penalty will be jeopardized by
16 delay, he may in his discretion commence an action
17 of contract to collect such amounts at any time prior
18 to January thirty-first next succeeding the last day
19 of the calendar year in which wages were paid, with-
20 out regard to the date on which such contributions
21 are due.

22 If an employer has failed to give notice to the direc-
23 tor of the fact, not otherwise determined, that he
24 believes he is subject to the provisions of this chapter
25 and to request a determination of his liability, or if
26 an employer has failed to file the wage and contribu-
27 tion reports required of him under this chapter show-
28 ing the amounts of such wages and the contribution
29 due thereon, or has filed false reports as to the amounts
30 of such wages with intent to defraud, then the pro-
31 visions of this subsection shall not apply and the
32 director may bring an action of contract at any time
33 for all periods, without regard to the year in which
34 wages were paid.

35 Actions brought under this subsection shall be given
36 precedence over other civil cases except petitions for
37 review arising under section forty-two.

1 SECTION 9. Section 25 of chapter 151A of the Gen-
2 eral Laws, as appearing in chapter 685 of the acts of
3 1941, and as further amended by chapter 356 of the
4 acts of 1945, is hereby further amended by adding at
5 the end thereof the following new subsection: —

6 (f) For any weeks in a benefit year subsequent to
7 the date on which he has been determined a dependent
8 child of a claimant under the provisions of subsection
9 twenty-nine (c).

1 SECTION 10. Subsection 29 (c) of said chapter 151A
2 of the General Laws is hereby amended by striking out
3 said subsection (c) as inserted by chapter 611 of the
4 acts of 1946 and inserting in place thereof the follow-
5 ing: — (c) An individual in unemployment and other-
6 wise eligible for benefits shall be paid for each week
7 of unemployment, in addition to the amount payable

8 under paragraphs (a) and (b) the sum of two dollars
9 for each, but not to exceed three, of his dependent
10 children under age eighteen. The number of de-
11 pendent children of the claimant shall be determined
12 as of the date of the filing of the first claim in a benefit
13 year, and this determination shall be effective for the
14 remainder of that benefit year. In no instance shall
15 the regular unemployment benefits and the addi-
16 tional amount allotted for dependency be more than
17 eighty per cent of his weekly wage. For the purposes
18 of this subsection his "weekly wage" shall be deemed
19 to be an amount equal to one twenty-sixth of the total
20 wages reported for him in the two highest quarters
21 of his base period; provided, that if wages reported
22 include not more than one quarter in said base period,
23 his weekly wage shall be deemed to be one thirteenth
24 of the total reported for such quarter. If such weekly
25 wage includes a fractional part of a dollar it shall be
26 raised to the next highest dollar. This paragraph
27 shall become effective on April first, nineteen hundred
28 and forty-seven.

1 SECTION 11. Subsection (a) of section 24 of said
2 chapter 151A is hereby amended by striking out in
3 the first line the words "been paid" and inserting in
4 place thereof the word: — earned, — so that said sub-
5 section shall read as follows:— (a) Have earned
6 wages in his base period of not less than one hundred
7 and fifty dollars.