

COVID-19 Legislative Update to Employers: March 18, 2020

We have received many calls from clients facing tough decisions about staffing. Should we cut hours? Should we just lay people off so they can collect unemployment? Or, should we stick in out for as long as we can? While each situation is different, the resources available to businesses dealing with this crisis are beginning to manifest. Late Tuesday night, March 17, the picture became a little clearer for businesses in Maine.

For companies looking to layoff or furlough employees:

Maine has passed emergency legislation granting the Governor broad powers to deal with the outbreak. These powers include the discretion to relax the eligibility requirements for unemployment benefits for workers laid off as a result of the Covid-19 disruption. We are still waiting to see how the Maine Department of Labor writes the rules but here is what we know today:

- The one week waiting period has been eliminated. Employees can begin collecting benefits as soon as they are approved.
- It is critical that the employer sign up for the Maine unemployment insurance data exchange program by going to www.reemploy.me.maine.gov. This allows the employer to provide the necessary information for the bureau to quickly grant benefits to the affected employees.
- Employers can still maintain a relationship with the employee without impacting the employee's entitlement to benefits. For example, an employer may make a commitment to restart operations at a certain point or an employer may continue to pay for the employee's health insurance. The DOL is expecting to issue guidance on the scope of this continuing relationship issue in the next couple of days.
- Unemployment claims related to the COVID-19 emergency will not affect the employer's unemployment insurance experience points.
- We are still waiting to hear the details of entitlement for employees who cannot work because of childcare obligations. For now, the Maine Department of Labor is encouraging those employees to apply for benefits to at least get the process started.

For companies looking to keep their staff but need help making payroll:

The U.S. Small Business Administration has approved Maine's emergency request for funding. This means that small businesses in Maine may apply for loans to cover the financial impacts of the emergency.

- These loans may be used to pay fixed debts, payroll, accounts payable and other bills that can't be paid because of the disaster's impact.
- As of this writing, the interest rate is 3.75% for small businesses but that rate may be different by the time you apply.

- The SBA can craft the terms of the loan so that the payback can be stretched out over a very long period.
- What qualifies as a small business is different for every industry. Some industries are sized by the number of employees while others are sized by their revenue. You can check to see if you are a small business by going here: <https://www.sba.gov/size-standards/>
- You will need your NAICS code. You can find your industry's NAICS code by going here: <https://www.census.gov/cgi-bin/sssd/naics/naicsrch>. Samples:
Boat Builders and Yards =336612
Marine Retailers and Dealers =441222
Marinas (under \$8M revenue) =713930

We are still waiting for a legislative response from the federal government. There are several proposals under consideration including changes to the FMLA and creation of a new federal paid leave law. Those proposals are changing rapidly. We are watching those developments and will provide updates when we know more.