

HOUSE BILL No. 1152

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-13.

Synopsis: Unemployment insurance. Clarifies provisions concerning the overpayment of unemployment benefits resulting from fraud or failure to disclose wages and the forfeiture of benefits or wage credits.

Effective: July 1, 2021.

Leonard

January 7, 2021, read first time and referred to Committee on Employment, Labor and Pensions.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1152

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 22-4-13-1, AS AMENDED BY P.L.122-2019,
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 1. (a) Whenever an individual receives benefits or
4 extended benefits to which the individual is not entitled under this
5 article or the unemployment insurance law of the United States, the
6 department shall establish that an overpayment has occurred by issuing
7 a determination of eligibility and shall establish the amount of the
8 overpayment. For an overpayment described in:
9 (1) subsections (c) and (d), the department has four (4) years from
10 the date of the department's discovery of the overpayment to send
11 notification to the individual of possible overpayment; and
12 (2) subsection (e), the department has four (4) years from the date
13 of the overpayment to send notification to the individual of
14 possible overpayment.
15 (b) An individual described in subsection (a) is liable to repay the
16 established amount of the overpayment.
17 (c) Any individual who knowingly:



1 (†) makes, or causes to be made by another, a false statement or
 2 representation of a material fact knowing it to be false; or

3 **(1) fails to disclose amounts earned during any week in the**
 4 **individual's waiting period, benefit period, or extended**
 5 **benefit period;**

6 (2) fails, or causes another to fail, to disclose a ~~material~~ **any** fact;
 7 ~~and~~ **or**

8 **(3) falsifies, or causes another to falsify, any fact;**

9 **that would disqualify the individual for benefits, reduce the**
 10 **individual's benefits, or render the individual ineligible for benefits**
 11 **or extended benefits, and** as a result thereof has received any amount
 12 as benefits to which the individual is not entitled under this article,
 13 shall be liable to repay such amount, with interest at the rate of one-half
 14 percent (0.5%) per month, to the department for the unemployment
 15 insurance benefit fund or to have such amount deducted from any
 16 benefits otherwise payable to the individual under this article.

17 (d) Any individual who fails to report wages received during a week
 18 in which benefits were paid or because of the subsequent receipt of
 19 income deductible from benefits which is allocable to the week or
 20 weeks for which benefits were paid and as a result is not entitled to
 21 such benefits under this article shall be liable to repay such amount to
 22 the department for the unemployment insurance benefit fund or to have
 23 such amount deducted from any benefits otherwise payable to the
 24 individual under this article.

25 (e) An individual who for any reason not described in subsection (c)
 26 or (d) has received any amount as benefits to which the individual is
 27 not entitled under this article is liable to repay that amount to the
 28 department for the unemployment insurance benefit fund or to have
 29 that amount deducted from any benefits otherwise payable to the
 30 individual under this article.

31 (f) When benefits are paid to an individual who was eligible or
 32 qualified to receive such payments, but when such payments are made
 33 because of the failure of representatives or employees of the
 34 department to transmit or communicate to such individual notice of
 35 suitable work offered, through the department, to such individual by an
 36 employing unit, then and in such cases, the individual shall not be
 37 required to repay or refund amounts so received, but such payments
 38 shall be deemed to be benefits improperly paid.

39 (g) Where it is finally determined by a deputy, an administrative law
 40 judge, the review board, or a court of competent jurisdiction that an
 41 individual has received benefits to which the individual is not entitled
 42 under this article, the department shall relieve the affected employer's



1 experience account of any benefit charges directly resulting from such
 2 overpayment, except as provided under IC 22-4-11-1.5. However, an
 3 employer's experience account will not be relieved of the charges
 4 resulting from an overpayment of benefits which has been created by
 5 a retroactive payment by such employer directly or indirectly to the
 6 claimant for a period during which the claimant claimed and was paid
 7 benefits unless the employer reports such payment by the end of the
 8 calendar quarter following the calendar quarter in which the payment
 9 was made or unless and until the overpayment has been collected.
 10 Those employers electing to make payments in lieu of contributions
 11 shall not have their account relieved as the result of any overpayment
 12 unless and until such overpayment has been repaid to the
 13 unemployment insurance benefit fund.

14 (h) Where any individual is liable to repay any amount to the
 15 department for the unemployment insurance benefit fund for the
 16 restitution of benefits to which the individual is not entitled under this
 17 article, the amount due may be collectible without interest, except as
 18 otherwise provided in subsection (c), by civil action in the name of the
 19 state of Indiana, on relation of the department, which remedy by civil
 20 action shall be in addition to all other existing remedies and to the
 21 methods for collection provided in this article. The department must
 22 commence a civil action as described in this subsection not later than
 23 ten (10) years following the date the determination of eligibility
 24 becomes final, including the exhaustion of all appeals.

25 (i) Liability for repayment of benefits paid to an individual (other
 26 than an individual employed by an employer electing to make payments
 27 in lieu of contributions) for any week may be waived upon the request
 28 of the individual if:

- 29 (1) the benefits were received by the individual without fault of
 30 the individual;
- 31 (2) the benefits were the result of payments made:
 - 32 (A) during the pendency of an appeal before an administrative
 33 law judge or the review board under IC 22-4-17 under which
 34 the individual is determined to be ineligible for benefits; or
 - 35 (B) because of an error by the employer or the department; and
- 36 (3) repayment would cause economic hardship to the individual.

37 SECTION 2. IC 22-4-13-1.1, AS AMENDED BY P.L.121-2014,
 38 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2021]: Sec. 1.1. (a) Notwithstanding any other provisions of
 40 this article, if an individual knowingly:

- 41 (1) fails to disclose amounts earned during any week in the
 42 individual's waiting period, benefit period, or extended benefit



- 1 period; ~~or~~
 2 (2) fails, **or causes another to fail**, to disclose ~~or has falsified~~ any
 3 fact; **or**
 4 **(3) falsifies, or causes another to falsify, any fact;**
 5 that would disqualify the individual for benefits, reduce the individual's
 6 benefits, or render the individual ineligible for benefits or extended
 7 benefits, the individual forfeits any wage credits earned, **regardless of**
 8 **whether benefits were paid, or and** any benefits or extended benefits
 9 that might otherwise be payable to the individual for any week in which
 10 the failure to disclose or falsification caused benefits to be paid
 11 improperly.
- 12 (b) In addition to **the wage credits and** amounts forfeited under
 13 subsection (a), an individual is subject to the following civil penalties
 14 for each instance in which the individual knowingly fails to disclose or
 15 falsifies any fact that if accurately reported to the department would
 16 disqualify the individual for benefits, reduce the individual's benefits,
 17 or render the individual ineligible for benefits or extended benefits:
- 18 (1) For the first instance, an amount equal to twenty-five percent
 19 (25%) of the benefit overpayment.
 20 (2) For the second instance, an amount equal to fifty percent
 21 (50%) of the benefit overpayment.
 22 (3) For the third and each subsequent instance, an amount equal
 23 to one hundred percent (100%) of the benefit overpayment.
- 24 (c) The department's determination under this section constitutes an
 25 initial determination under IC 22-4-17-2(a) and is subject to a hearing
 26 and review under IC 22-4-17-3 through IC 22-4-17-15.
- 27 (d) Interest and civil penalties collected under this chapter shall be
 28 deposited as follows:
- 29 (1) Fifteen percent (15%) of the amount collected shall be
 30 deposited in the unemployment insurance benefit fund established
 31 under IC 22-4-26-1.
 32 (2) The remainder of the amount collected shall be deposited in
 33 the special employment and training services fund established
 34 under IC 22-4-25-1.

