

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 ENROLLED ACT No. 1152

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

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

SECTION 1. IC 22-4-13-1, AS AMENDED BY P.L.122-2019, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1. (a) Whenever an individual receives benefits or extended benefits to which the individual is not entitled under this article or the unemployment insurance law of the United States, the department shall establish that an overpayment has occurred by issuing a determination of eligibility and shall establish the amount of the overpayment. For an overpayment described in:

- (1) subsections (c) and (d), the department has four (4) years from the date of the department's discovery of the overpayment to send notification to the individual of possible overpayment; and
- (2) subsection (e), the department has four (4) years from the date of the overpayment to send notification to the individual of possible overpayment.

(b) An individual described in subsection (a) is liable to repay the established amount of the overpayment.

(c) Any individual who knowingly:

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

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

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

(3) falsifies, or causes another to falsify, a material fact; that would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits, and as a result thereof has received any amount as benefits to which the individual is not entitled under this article, shall be liable to repay such amount, with interest at the rate of one-half percent (0.5%) per month, to the department for the unemployment insurance benefit fund or to have such amount deducted from any benefits otherwise payable to the individual under this article.

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

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

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

(g) Where it is finally determined by a deputy, an administrative law judge, the review board, or a court of competent jurisdiction that an individual has received benefits to which the individual is not entitled under this article, the department shall relieve the affected employer's experience account of any benefit charges directly resulting from such overpayment, except as provided under IC 22-4-11-1.5. However, an employer's experience account will not be relieved of the charges resulting from an overpayment of benefits which has been created by a retroactive payment by such employer directly or indirectly to the

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claimant for a period during which the claimant claimed and was paid benefits unless the employer reports such payment by the end of the calendar quarter following the calendar quarter in which the payment was made or unless and until the overpayment has been collected. Those employers electing to make payments in lieu of contributions shall not have their account relieved as the result of any overpayment unless and until such overpayment has been repaid to the unemployment insurance benefit fund.

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

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

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

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

- (1) fails to disclose amounts earned during any week in the individual's waiting period, benefit period, or extended benefit period; ~~or~~
 - (2) fails, **or causes another to fail**, to disclose ~~or has falsified any a material~~ fact; **or**
 - (3) **falsifies, or causes another to falsify, a material fact;**
- that would disqualify the individual for benefits, reduce the individual's

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benefits, or render the individual ineligible for benefits or extended benefits, the individual forfeits any wage credits earned, **regardless of whether benefits were paid, or and** any benefits or extended benefits that might otherwise be payable to the individual for any week in which the failure to disclose or falsification ~~caused benefits to be paid improperly. occurred.~~

(b) In addition to **the wage credits and** amounts forfeited under subsection (a), an individual is subject to the following civil penalties for each instance in which the individual knowingly fails to disclose or falsifies any fact that if accurately reported to the department would disqualify the individual for benefits, reduce the individual's benefits, or render the individual ineligible for benefits or extended benefits:

- (1) For the first instance, an amount equal to twenty-five percent (25%) of the benefit overpayment.
- (2) For the second instance, an amount equal to fifty percent (50%) of the benefit overpayment.
- (3) For the third and each subsequent instance, an amount equal to one hundred percent (100%) of the benefit overpayment.

(c) The department's determination under this section constitutes an initial determination under IC 22-4-17-2(a) and is subject to a hearing and review under IC 22-4-17-3 through IC 22-4-17-15.

(d) Interest and civil penalties collected under this chapter shall be deposited as follows:

- (1) Fifteen percent (15%) of the amount collected shall be deposited in the unemployment insurance benefit fund established under IC 22-4-26-1.
- (2) The remainder of the amount collected shall be deposited in the special employment and training services fund established under IC 22-4-25-1.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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