

SENATE BILL No. 42

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4-13.

Synopsis: Unemployment insurance overpayments. Requires the department of workforce development to waive repayment of unemployment benefit overpayments made because of an error by the department.

Effective: July 1, 2014.

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January 6, 2014, read first time and referred to Committee on Pensions and Labor.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 42



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.108-2006,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]: Sec. 1. (a) Whenever an individual receives benefits or
4 extended benefits to which the individual is not entitled under:
5 (1) this article; or
6 (2) the unemployment insurance law of the United States;
7 the department shall establish that an overpayment has occurred and
8 establish the amount of the overpayment.
9 (b) **Except as provided in subsection (i)**, an individual described
10 in subsection (a) is liable to repay the established amount of the
11 overpayment.
12 (c) Any individual who knowingly:
13 (1) makes, or causes to be made by another, a false statement or
14 representation of a material fact knowing it to be false; or
15 (2) fails, or causes another to fail, to disclose a material fact; and
16 as a result thereof has received any amount as benefits to which the



1 individual is not entitled under this article, shall be liable to repay such
2 amount, with interest at the rate of one-half percent (0.5%) per month,
3 to the department for the unemployment insurance benefit fund or to
4 have such amount deducted from any benefits otherwise payable to the
5 individual under this article, within the six (6) year period following
6 the later of the date the department establishes that an overpayment has
7 occurred or the date that the determination of an overpayment becomes
8 final following the exhaustion of all appeals.

9 (d) **Except as provided in subsection (i)**, any individual who, for
10 any reason other than misrepresentation or nondisclosure as specified
11 in subsection (c), has received any amount as benefits to which the
12 individual is not entitled under this article or because of the subsequent
13 receipt of income deductible from benefits which is allocable to the
14 week or weeks for which such benefits were paid becomes not entitled
15 to such benefits under this article shall be liable to repay such amount
16 to the department for the unemployment insurance benefit fund or to
17 have such amount deducted from any benefits otherwise payable to the
18 individual under this article, within the three (3) year period following
19 the later of the date the department establishes that the overpayment
20 occurred or the date that the determination that an overpayment
21 occurred becomes final following the exhaustion of all appeals.

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

30 (f) Where it is finally determined by a deputy, an administrative law
31 judge, the review board, or a court of competent jurisdiction that an
32 individual has received benefits to which the individual is not entitled
33 under this article, the department shall relieve the affected employer's
34 experience account of any benefit charges directly resulting from such
35 overpayment. However, an employer's experience account will not be
36 relieved of the charges resulting from an overpayment of benefits
37 which has been created by a retroactive payment by such employer
38 directly or indirectly to the claimant for a period during which the
39 claimant claimed and was paid benefits unless the employer reports
40 such payment by the end of the calendar quarter following the calendar
41 quarter in which the payment was made or unless and until the
42 overpayment has been collected. Those employers electing to make



1 payments in lieu of contributions shall not have their account relieved
 2 as the result of any overpayment unless and until such overpayment has
 3 been repaid to the unemployment insurance benefit fund.

4 (g) **Except as provided in subsection (i)**, where any individual is
 5 liable to repay any amount to the department for the unemployment
 6 insurance benefit fund for the restitution of benefits to which the
 7 individual is not entitled under this article, the amount due may be
 8 collectible without interest, except as otherwise provided in subsection
 9 (c), by civil action in the name of the state of Indiana, on relation of the
 10 department, which remedy by civil action shall be in addition to all
 11 other existing remedies and to the methods for collection provided in
 12 this article.

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

17 (1) the benefits were received by the individual without fault of
 18 the individual;

19 (2) the benefits were the result of payments made:

20 (A) during the pendency of an appeal before an administrative
 21 law judge or the review board under IC 22-4-17 under which
 22 the individual is determined to be ineligible for benefits; or

23 (B) because of an error by the employer; ~~or the department;~~
 24 and

25 (3) repayment would cause economic hardship to the individual.

26 (i) **Liability for repayment of benefits paid to an individual,**
 27 **including an individual employed by an employer electing to make**
 28 **payments in lieu of contributions, shall be waived if:**

29 (1) **the benefits were received by the individual without fault**
 30 **of the individual; and**

31 (2) **the benefits were the result of payments made because of**
 32 **an error by the department.**

33 SECTION 2. IC 22-4-13-4, AS ADDED BY P.L.172-2011,
 34 SECTION 128, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) This section applies to an
 36 individual:

37 (1) for whom the department has established an overpayment by
 38 a final written determination under section 1(a) or 1(b) of this
 39 chapter; ~~and~~

40 (2) **whose liability for repayment is not waived under section**
 41 **1(i) of this chapter; and**

42 ~~(2)~~ (3) whose overpayment amount that is due and payable equals



1 or exceeds:
2 (A) the individual's weekly benefit amount; multiplied by
3 (B) four (4).
4 (b) Notwithstanding any other law and subject to subsection (c), an
5 individual is entitled to repay the established amount of an
6 overpayment over a period:
7 (1) beginning on the date the determination of the amount of the
8 overpayment is final; and
9 (2) ending on a date not later than the date occurring thirty-six
10 (36) months after the date specified in subdivision (1).
11 (c) An individual to whom this section applies may repay an
12 overpayment over time as provided in subsection (b) not more than
13 once during the individual's lifetime.

