

HOUSE No. 4202

The Commonwealth of Massachusetts

PRESENTED BY:

Joan Meschino

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to waivers for non-fault overpayments.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: | DATE ADDED: |
|-------------------------------|-------------------------|------------------|
| <i>Joan Meschino</i> | <i>3rd Plymouth</i> | <i>9/14/2021</i> |
| <i>Tami L. Gouveia</i> | <i>14th Middlesex</i> | <i>9/15/2021</i> |
| <i>Tram T. Nguyen</i> | <i>18th Essex</i> | <i>9/15/2021</i> |
| <i>Cindy F. Friedman</i> | <i>Fourth Middlesex</i> | <i>9/15/2021</i> |
| <i>Natalie M. Higgins</i> | <i>4th Worcester</i> | <i>9/16/2021</i> |
| <i>Marcos A. Devers</i> | <i>16th Essex</i> | <i>9/17/2021</i> |
| <i>Edward R. Philips</i> | <i>8th Norfolk</i> | <i>9/20/2021</i> |
| <i>Colleen M. Garry</i> | <i>36th Middlesex</i> | <i>9/20/2021</i> |
| <i>Susannah M. Whipps</i> | <i>2nd Franklin</i> | <i>9/21/2021</i> |
| <i>David F. DeCoste</i> | <i>5th Plymouth</i> | <i>9/21/2021</i> |
| <i>Jason M. Lewis</i> | <i>Fifth Middlesex</i> | <i>9/21/2021</i> |
| <i>Lindsay N. Sabadosa</i> | <i>1st Hampshire</i> | <i>9/21/2021</i> |
| <i>Patricia D. Jehlen</i> | <i>Second Middlesex</i> | <i>9/21/2021</i> |
| <i>Christina A. Minicucci</i> | <i>14th Essex</i> | <i>9/21/2021</i> |
| <i>Steven Ultrino</i> | <i>33rd Middlesex</i> | <i>9/21/2021</i> |
| <i>Joseph D. McKenna</i> | <i>18th Worcester</i> | <i>9/21/2021</i> |
| <i>Michelle M. DuBois</i> | <i>10th Plymouth</i> | <i>9/21/2021</i> |
| <i>Harriette L. Chandler</i> | <i>First Worcester</i> | <i>9/22/2021</i> |

| | | |
|----------------------------|--|------------------|
| <i>Angelo L. D'Emilia</i> | <i>8th Plymouth</i> | <i>9/23/2021</i> |
| <i>Liz Miranda</i> | <i>5th Suffolk</i> | <i>9/23/2021</i> |
| <i>Joanne M. Comerford</i> | <i>Hampshire, Franklin and Worcester</i> | <i>9/23/2021</i> |
| <i>Rebecca L. Rausch</i> | <i>Norfolk, Bristol and Middlesex</i> | <i>9/24/2021</i> |
| <i>Kay Khan</i> | <i>11th Middlesex</i> | <i>10/5/2021</i> |

HOUSE No. 4202

By Ms. Meschino of Hull, a petition (subject to Joint Rule 12) of Joan Meschino and others relative to waivers for non-fault overpayments of certain unemployment insurance benefits. Labor and Workforce Development.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to waivers for non-fault overpayments.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect workers during a public health emergency, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation 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. (a) Notwithstanding section 69 (c) of chapter 151A of the General Laws or
2 any other general or special law to the contrary, with respect to individuals receiving any
3 unemployment insurance benefits that were accrued in 2020 and 2021, including but not limited
4 to Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation,
5 Federal Extended Benefits, Federal Pandemic Unemployment Compensation, and Mixed Earner
6 Unemployment Compensation, the department of unemployment assistance shall:

7 (1) provide notice of the availability of the overpayment waiver process under the
8 standards described in subsection (b) on all notices concerning unemployment insurance benefits
9 overpayments including but not limited to statements of accounts to all individuals described in
10 subsection (a) who were overpaid for any week or weeks in 2020 or 2021 and who have not

11 previously been granted a full waiver of the overpaid weeks, regardless of whether an application
12 for a waiver of overpayment was filed, determined, appealed, or is otherwise final; and

13 (2) provide individuals telephone assistance or in-person assistance where available to
14 apply for waivers of overpayment including but not limited to individuals who are limited
15 English proficient or who lack familiarity with or access to technology or other resources needed
16 to complete the waiver request or provide supporting documentation.

17 (b) The department shall grant a waiver of overpayment to individuals who meet the
18 requirements of section 69 (c) chapter 151A of the General Laws, or to any individuals described
19 in subsection (a) of this act who apply for a waiver, if, in the judgment of the director, based on
20 the facts and circumstances of the individual's claim for a waiver, the individual is without fault.
21 Under these circumstances, it shall be against equity and good conscience for the director to
22 recover an overpayment, and the department shall grant a waiver:

23 (1) where the individual meets the indigency standards set out in section 27A of chapter
24 261 of the General Laws; or

25 (2) where the individual used the unemployment benefits to meet their ordinary living
26 expenses; or

27 (3) where the department made programming, technological or automated system errors
28 or where individuals relied upon the department's publicized information later determined to be
29 erroneous; or

30 (4) where the department failed to determine a nonmonetary issue within 21 days after
31 the department detected the issue; or

32 (5) where the department initially awarded unemployment benefits but reversed the
33 award after an appeal that occurred more than 30 days after the initial award; or

34 (6) where the department failed to send questionnaires to interested parties prior to
35 awarding unemployment benefits; or

36 (7) where a decision on a hearing that resulted in an overpayment being assessed was
37 issued more than 30 days after the first unemployment benefit payment; or

38 (8) where the overpayment is based on unemployment claims that were opened while the
39 department suppressed lack of work notifications; or

40 (9) where there is any other reason for which recovery of the overpayment would be
41 against equity and good conscience under the circumstances; or

42 (10) where the denial of a waiver would fail to further the mandate contained in section
43 74 of said chapter 151A to lighten the burden which now falls on the unemployed worker and the
44 worker's family.

45 (c) The department shall review all waiver applications including waiver denials for
46 individuals described in subsection (a) and shall grant waivers of overpayments in accordance
47 with subsection (b), making all reasonable efforts to review said applications within 90 days of
48 the effective date of this act. Any funds recouped or repaid prior to the granting of these waivers
49 shall be returned to the individual within 30 days of the waiver being granted.

50 (d) The department shall ensure that no overpayments are or have been established based
51 on a redetermination more than 1 year after the first date for which benefits are paid on the

52 unemployment claim at issue where there is no fault on the part of the individual as prohibited
53 under section 71 of chapter 151A.

54 (e) All notices required under this Act shall be in plain language and provided to
55 individuals in their preferred language and preferred method of communication.