

## SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILLS NOS. 673 &amp; 709

AN ACT

To amend chapter 288, RSMo, by adding thereto one new section relating to the recovery of overpaid unemployment benefits, with an emergency clause.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 288, RSMo, is amended by adding thereto one new section, to be known as section 288.552, to read as follows:

288.552. 1. Notwithstanding any provision of law to the contrary, the department of labor and industrial relations, and any division thereof, shall waive the repayment of any unemployment benefits that were incorrectly but nonfraudulently distributed to claimants from the state unemployment compensation trust fund after March 27, 2020, but before December 31, 2020, to the extent that federal law grants the state of Missouri the authority to waive the repayment of such incorrectly but nonfraudulently distributed benefits.

2. A waiver of repayment granted to a claimant under subsection 1 of this section shall meet the following criteria:

(1) The waiver relates to an incorrectly but nonfraudulently distributed payment of unemployment benefits in which there was no fault on the part of the claimant;

(2) The repayment of such benefits by the claimant would be contrary to equity and good conscience; and

(3) The decision to grant the waiver to a claimant is made on an individualized basis.

3. Any claimant denied a waiver pursuant to this section shall be granted an opportunity for a fair hearing before the appeals tribunal pursuant to section 288.190. The filing of an appeal shall stay the collection of the overpayment or overpayments for which the waiver was denied until such time that a decision is issued that has become final. The decision of the appeals tribunal shall be reviewable by the labor and industrial relations commission pursuant to section 288.200.

4. (1) Any claimant who is denied a waiver pursuant to this section shall be sent a notice by the department, not later than ninety calendar days after the effective date of this section, by both electronic mail and by mail postage prepaid with a preaddressed return card notifying them of the right to appeal such decision. If the department does not receive a response within sixty calendar days from the claimant, the department shall send another notice by certified mail with a preaddressed return card. If the claimant does not respond to the second notice within thirty days, the department may proceed with collecting the overpaid benefits.

(2) Each notice required by subdivision (1) of this subsection shall include instructions on how to file an appeal and shall also include the following in bold at the top:

"ATTENTION: YOU HAVE BEEN OVERPAID UNEMPLOYMENT BENEFITS.

- BY LAW, YOU ARE REQUIRED TO REPAY ALL OVERPAID UNEMPLOYMENT BENEFITS.
- YOU MAY APPEAL THIS REQUIREMENT.
- IF YOU RETURN THIS CARD TO THE DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS WITHIN 60 DAYS INDICATING THAT YOU WILL APPEAL, COLLECTION

WILL NOT COMMENCE UNTIL AFTER THE APPEAL HAS COMPLETED."

(3) If a claimant responds to a notice described in this subsection indicating that he or she plans to appeal, the department and any division thereof shall cease all efforts to recover the overpaid benefits. Notwithstanding any provision of law to the contrary, under no circumstance shall the department or any division thereof attempt to recover the overpaid benefits while the case is pending appeal, provided that the claimant shall file an appeal not later than sixty calendar days after notifying the department of his or her intent to appeal.

5. (1) In the event that the department or any division thereof has over-recovered unemployment compensation benefits the department shall notify the claimant by certified mail within fifteen days of discovery of such over-recovery and:

(a) If the over-recovered sums are less than ten thousand dollars, such sums shall be repaid to the claimant from whom the sums were recovered not later than thirty days after the claimant has been notified; and

(b) If the over-recovered sums are ten thousand dollars or more, such sums shall be repaid to the claimant from whom the sums were recovered within a reasonable time, as determined through agreement between the department and the claimant, with interest, as determined by section 32.068.

(2) If the department fails to notify the claimant of an over-recovery as required by subdivision (1) of this subsection, interest shall accrue, as determined by section 32.068, on any repayment of funds from the date that the over-recovery was discovered.

(3) For purposes of this subsection, "over-recovered unemployment compensation benefits" means any overpaid unemployment compensation benefits that have been recovered by the department of labor and industrial relations or any division thereof but the amount recovered exceeded what was required to be recovered under this chapter or under federal law.

Section B. Because immediate action is necessary to protect the financial welfare of the residents of this state, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.