

2010 -- H 7294

LC00836

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION --  
BENEFITS

Introduced By: Representative Thomas Winfield

Date Introduced: January 28, 2010

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 28-33-17.2 of the General Laws in Chapter 28-33 entitled  
2 "Workers' Compensation - Benefits" is hereby amended to read as follows:

3 **28-33-17.2. Employee's affirmative duty to report earnings -- Penalties for failure to**  
4 **provide earnings report -- Civil and criminal liability.** -- (a) It is the intent of the legislature  
5 that the costs resulting from fraud and abuse in the workers' compensation system be arrested. In  
6 order to discourage potential abusers, employees must be aware of the affirmative duty to report  
7 earnings and the penalties for any fraud or abuse must be severe and certain.

8 (b) Any employee entitled to receive weekly workers' compensation benefits shall have  
9 an affirmative duty to report those earnings, including wages or salary ~~remuneration~~ [payments](#)  
10 paid for [any and all work activities, including, but not limited to](#), personal services, commissions,  
11 and bonuses, including the cash value of all ~~remuneration~~ [payments](#) payable in any ~~medium~~ [form](#)  
12 other than cash, earned from self-employment or from any employer other than the employer in  
13 whose employ he or she was injured, so that compensation benefits may be properly computed.

14 (c) (1) The department of labor and training, employer, or insurer shall notify any  
15 employee receiving weekly workers' compensation benefits, on forms prescribed by the  
16 department, of that employee's affirmative duty to report earnings [as well as all non-paid work](#)  
17 [activities, whether or not the result of self-employment](#) and shall specifically notify the employee  
18 that a failure to report earnings [or any work activities whether paid or non-paid](#), may subject him

1 or her to civil or criminal liability.

2 (2) The notice by the employer or insurer may be satisfied by printing the notice on the  
3 employee payee statement (check stub) portion of indemnity checks sent to the employee.

4 (d) Any employee entitled to weekly workers' compensation benefits for any period of  
5 time shall, upon written request of the employer or insurer, provide at reasonable intervals to the  
6 employer or insurer an earnings report, on forms prescribed by the department, advising the  
7 employer or insurer of all work activities whether paid or unpaid, for any business or person  
8 including self-employment as well as the exact amount of earnings and/or wares for each week of  
9 his or her entitlement to benefits ~~or~~ and advising that no earnings and/or wares were received for  
10 particular weeks, so that the employer or insurer may properly compute the amount of benefits  
11 due to the employee.

12 (e) If any employee refuses to submit an earnings report upon request by the employer or  
13 insurer his or her rights to compensation ~~may~~ shall be suspended and his or her compensation  
14 during that period of suspension ~~may~~ shall be forfeited.

15 (f) Where any employee is found to be entitled to benefits in excess of fifty-two (52)  
16 weeks pursuant to a decision resulting in the entry of an order or decree, he or she shall submit an  
17 earnings report as described in subsection (d) of this section. In these cases, the employer or  
18 insurer must pay benefits within seven (7) days of receipt of the earnings report; provided, that no  
19 petition to enforce shall be allowed nor any penalty for late payment awarded unless payments  
20 were not made within seven (7) days after the earnings report has been provided.

21 (g) The employer or insurer shall be entitled to recover overpayments made to any  
22 employee as a result of a violation of the employee's duty to report earnings by any of the  
23 following means:

24 (1) Upon petition and order of the workers' compensation court to suspend the  
25 employer's obligation to pay weekly benefits.

26 (2) By civil action in the district or superior court. Costs and counsel fees for the action  
27 may be awarded to the employer or insurer.

28 (h) Any employee who by any fraudulent means obtains or attempts to obtain workers'  
29 compensation benefits, whether by failure to report earnings, falsification of the earnings report  
30 document, or intentional misrepresentation of any facts regarding wages, work activities or  
31 injuries shall, ~~may~~ forfeit the right to any future weekly workers' compensation benefits as  
32 determined by the workers' compensation court.

33 (i) Any employee who by any fraudulent means obtains or attempts to obtain workers'  
34 compensation benefits to which he or she was not entitled, whether by failure to report earnings,

1 falsification of the earnings report, or intentional misrepresentation [of any facts regarding wages,](#)  
2 [work activities or injuries,](#) shall be deemed guilty of larceny pursuant to section 11-41-4 or other  
3 pertinent criminal statutes of the state of Rhode Island. Each occurrence shall constitute a  
4 separate and distinct offense.

5 (j) The administrator of the workers' compensation court, any workers' compensation  
6 judge, or any representative of an employer may be the party complainant to any complaint and  
7 warrant brought to invoke the criminal penalties provided for in this section, and the party  
8 complainant shall, except for the representative of the employer, be exempt from giving surety for  
9 costs in the action.

10 (k) All criminal actions for any violation of this section shall be prosecuted by the  
11 attorney general.

12 (l) Where any employer or insurer intentionally and unreasonably utilizes the earnings  
13 report required by subsection (d) of this section in order to harass an employee or delay payment  
14 of benefits to an employee, a penalty of twenty percent (20%) shall be added to all amounts of  
15 weekly compensation benefits due and owing.

16 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO LABOR AND LABOR RELATIONS -- WORKERS' COMPENSATION --  
BENEFITS

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- 1           This act would expand the obligation of an employee receiving workers' compensation to
- 2 report earnings of all types and to increase the penalty accordingly for failure to do so.
- 3           This act would take effect upon passage.

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