

ENROLLED ACT NO. 51, SENATE

SIXTY-SECOND LEGISLATURE OF THE STATE OF WYOMING
2013 GENERAL SESSION

AN ACT relating to unemployment compensation; providing that an employer's account shall not be relieved of benefit charges for an erroneous payment caused by the employer's failure to provide requested information as specified; providing definitions; amending the penalty assessment on fraudulently received benefits; making conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 27-3-102(a) by creating new paragraphs (xxii) and (xxiii) and by renumbering (xxii) as (xxiv), 27-3-409(a) and (d) and 27-3-506 by creating new subsections (e) and (f) are amended to read:

27-3-102. Definitions generally.

(a) As used in this act:

(xxii) "Erroneous payment" means a payment that, but for the failure by the employer or the employer's agent to provide requested information with respect to the claim for unemployment compensation, would not have been made;

(xxiii) "Pattern of failing" means repeated documented failure on the part of the employer or the agent of the employer to respond to a written request from the department for information relating to a claim for benefits, taking into consideration the number of instances of failure in relation to the total volume of requests by the department to the employer or the employer's agent;

~~(xxii)~~(xxiv) "This act" means W.S. 27-3-101 through 27-3-706.

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**27-3-409. Payment of benefits upon determination;
repayment of overpaid benefits; penalty.**

(a) Benefits shall be paid in accordance with a determination, redetermination or decision until modified or reversed by a subsequent or pending redetermination or decision. A proceeding for judicial review under this article shall not operate as a supersedeas or stay nor shall the commission or the court issue an injunction, supersedeas, stay or other writ or process suspending the payment of benefits. Except as provided in W.S. 27-3-506(e), if a determination, redetermination or decision is reversed or modified, an employer's account shall not be charged for benefits paid under an erroneous determination and benefits shall be paid or denied in accordance with the modifying or reversing redetermination or decision.

(d) Any overpayment of benefits fraudulently received shall be assessed a penalty equal to ~~five percent (5%)~~ twenty percent (20%) of the amount of overpayment and an additional five percent (5%) penalty on the remaining unpaid balance at the end of every six (6) months. One-fourth (1/4) of the amounts collected pursuant to this subsection—the initial penalty and all of the additional penalties shall be paid into the employment security revenue account. and the department shall utilize the those collected amounts for administrative costs of overpayment collection, fraud investigation, developing and providing educational programs for this act. Three-fourths (3/4) of the amounts collected pursuant to the initial penalty shall be paid into the unemployment trust fund account. Offset shall not be used to recover amounts due under this section.

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27-3-506. Notice of rates and charges; relief, review or redetermination.

(e) An employer's account shall not be relieved of charges relating to a payment that was made erroneously from the unemployment compensation fund after July 1, 2013 if the department determines that:

(i) The erroneous payment was made because the employer, or the agent of the employer, was at fault for failing to respond timely or adequately to a written request, sent by United States mail or by electronic mail, from the department for information relating to the claim for benefits which resulted in the erroneous payment; and

(ii) The employer or agent has established a pattern of failing to respond timely or adequately to requests similar to those identified in paragraph (i) of this subsection.

(f) For purposes of subsection (e) of this section, "timely" means within fifteen (15) days after a notice or request is sent by United States mail or by electronic mail to the address of record of the employer or employer's agent. The department shall acknowledge receipt of the requested information within fifteen (15) days, if requested by the employer or the employer's agent. Acknowledgment shall be by United States mail or electronic mail.

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Section 2. This act is effective July 1, 2013.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk