

SENATE FILE NO. SF0073

Unemployment insurance-federal compliance.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

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

8

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

10

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

15

16 **27-3-102. Definitions generally.**

1

2 (a) As used in this act:

3

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

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

16

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

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20 **27-3-409. Payment of benefits upon determination;**
21 **repayment of overpaid benefits; penalty.**

22

23 (a) Benefits shall be paid in accordance with a
24 determination, redetermination or decision until modified

1 or reversed by a subsequent or pending redetermination or
2 decision. A proceeding for judicial review under this
3 article shall not operate as a supersedeas or stay nor
4 shall the commission or the court issue an injunction,
5 supersedeas, stay or other writ or process suspending the
6 payment of benefits. Except as provided in W.S.
7 27-3-506(e), if a determination, redetermination or
8 decision is reversed or modified, an employer's account
9 shall not be charged for benefits paid under an erroneous
10 determination and benefits shall be paid or denied in
11 accordance with the modifying or reversing redetermination
12 or decision.

13

14 (d) Any overpayment of benefits fraudulently received
15 shall be assessed a penalty equal to ~~five percent (5%)~~
16 twenty percent (20%) of the amount of overpayment and an
17 additional five percent (5%) penalty on the remaining
18 unpaid balance at the end of every six (6) months. One-
19 fourth (1/4) of the amounts collected pursuant to ~~this~~
20 ~~subsection~~ the initial penalty and all of the additional
21 penalties shall be paid into the employment security
22 revenue account ~~and~~ and the department shall utilize ~~the~~ those
23 collected amounts for administrative costs of overpayment
24 collection, fraud investigation, developing and providing

1 educational programs for this act. Three-fourths (3/4) of
2 the amounts collected pursuant to the initial penalty shall
3 be paid into the unemployment trust fund account. Offset
4 shall not be used to recover amounts due under this
5 section.

6

7 **27-3-506. Notice of rates and charges; relief, review**
8 **or redetermination.**

9

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

14

15 (i) The erroneous payment was made because the
16 employer, or the agent of the employer, was at fault for
17 failing to respond timely or adequately to a written
18 request from the department for information relating to the
19 claim for benefits which resulted in the erroneous payment;
20 and

21

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

1 this subsection. An employer or employer's agent shall not
2 be determined to have engaged in a pattern of failure if
3 the number of failures during the four (4) most recent
4 completed calendar quarters prior to the current request is
5 fewer than two (2) or less than two percent (2%) of the
6 total requests, whichever is greater.

7
8 (f) For purposes of subsection (e) of this section,
9 "timely" means within fifteen (15) days after a notice or
10 request is mailed to the address of record of the employer
11 or employer's agent. The department shall acknowledge in
12 writing or by electronic communication to the employer or
13 the employer's agent when the department receives
14 information in response to its written request for
15 information.

16

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

18

19

(END)