

SENATE FILE NO. SF0023

Unemployment compensation amendments.

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

A BILL

for

1 AN ACT relating to unemployment compensation; complying
2 with federal requirements; amending the benefit
3 disqualification period for false claims; authorizing
4 benefit repayment agreements; making contractor liability
5 provisions applicable to owner-contractors; providing for
6 consolidated accounts following a business acquisition;
7 making all employers subject to cancellation of the
8 substitute payment option; authorizing installment payment
9 agreements for delinquent employer contributions; providing
10 for personal liability and liens on the property of
11 specified officers and directors of delinquent employers,
12 as specified; amending the threshold for incremental bonds
13 for impact industries; amending and providing definitions;
14 authorizing publishing the identity of state agency
15 employing units as specified; repealing provisions

1 inconsistent with the federal unemployment tax act; and
2 providing for an effective date.

3
4 *Be It Enacted by the Legislature of the State of Wyoming:*

5
6 **Section 1.** W.S. 27-3-102(a)(xxi), 27-3-311(e),
7 27-3-409(b)(intro), by creating a new paragraph (iii) and
8 (f)(intro), 27-3-502(f), 27-3-507(a), 27-3-509(f)(intro)
9 and (i), 27-3-510(e)(intro), 27-3-511 by creating new
10 subsections (f) and (g), 27-3-516(a) and 27-3-607 by
11 creating a new subsection (d) are amended to read:

12
13 **27-3-102. Definitions generally.**

14
15 (a) As used in this act:

16
17 (xxi) "Casual labor" means service ~~of less than~~
18 ~~two (2) consecutive weeks and not within the normal course~~
19 ~~of business~~ not within the normal course of business unless
20 the cash remuneration paid for the service is fifty dollars
21 (\$50.00) or more;

22
23 **27-3-311. Disqualifications from entitlement;**
24 **grounds; forfeiture.**

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2 (e) Any person who knowingly files a claim for
3 benefits which contains a false statement or
4 misrepresentation of a material fact, as determined by the
5 department, shall be disqualified from receiving benefits
6 for a fifty-two (52) week period beginning the week in
7 which the false statement or misrepresentation was made or
8 beginning the week following the date that notice of the
9 overpayment ~~determination or decision~~ is mailed to the
10 person who filed the claim.

11

12 **27-3-409. Payment of benefits upon determination;**
13 **repayment of overpaid benefits; penalty.**

14

15 (b) An individual receiving benefits under this act
16 to which he is not entitled shall be liable for and repay
17 the benefit. Repayment of the benefits shall be had ~~either~~
18 by any combination of recoupment, recovery by civil action
19 or ~~both~~ voluntary reimbursement agreement:

20

21 (iii) The department in its discretion, without
22 civil action, may accept repayment of overpaid benefits by
23 reimbursement from an individual pursuant to a payment
24 schedule approved by the department.

1

2 (f) The department may cancel the amount of
3 overpayments or penalty due on any overpayment after ~~the~~
4 ~~expiration of the time period described in paragraph (b)(i)~~
5 ~~of this section~~ eight (8) years from the effective date of
6 the claim resulting in the overpayment when:

7

8 27-3-502. Determination of employer and employment;
9 election of coverage; records and reports; injunction;
10 service suppliers.

11

12 (f) Any employing unit subject to this act shall not
13 commence business or engage in work within this state
14 without registering under this act and otherwise complying
15 with this act. A project owner contracting for services or
16 a prime or general contractor subcontracting any part of a
17 contract shall require notification and compliance by any
18 subcontractor under this subsection before awarding a
19 contract or permitting a subcontractor to begin work. The
20 state, a county, municipality or any other political
21 subdivision shall require the prime or general contractor
22 to register and comply with this act before authorizing the
23 contractor to begin work under any public contract. The
24 secretary of state shall report to the department the names

1 and addresses of all business entities registering with
2 that agency during the preceding month. The Wyoming
3 department of transportation and the department of
4 administration and information shall report to the
5 department the names and addresses of business entities
6 awarded a contract by that agency during the preceding
7 month. Any employing unit failing to comply with this
8 subsection or W.S. 27-3-510(c) or (d) or delinquent for
9 filing reports or paying contributions required under this
10 act may be enjoined by the department from engaging or
11 continuing in business subject to this act until required
12 reports are filed or payments are made and the unit
13 otherwise complies with this act. All costs of the action
14 including a reasonable attorney fee shall be paid by the
15 employing unit against which the injunction is sought. In
16 addition to the penalties and remedies provided by W.S.
17 27-3-510 through 27-3-512 and 27-3-704, the department may
18 assess and collect an additional fee of up to three (3)
19 times the amount of delinquent contributions payable under
20 this act for any employing unit failing to comply with this
21 subsection. This additional fee is part of the payment due
22 for all purposes if an action is instituted under this
23 subsection. If the employing unit is under contract with a
24 project owner or is a subcontractor, the general contractor

1 or the project owner may be held liable for payment of the
2 contributions and any additional assessment due.

3
4 **27-3-507. Person acquiring trade of employing unit;**
5 **transfer of experience and assignment of rates.**

6
7 (a) A person acquiring the trade, organization,
8 business or substantially all the assets of an employer
9 subject to this act shall assume the employer's account,
10 benefit experience and contribution rate. If the acquiring
11 person is an employer subject to this act, the department
12 shall consolidate the separate accounts and benefit
13 experience and shall determine the contribution rate of the
14 acquiring person effective the first day of the calendar
15 quarter following the date of acquisition. A delinquency
16 rate shall be assumed by the acquiring person as provided
17 in W.S. 27-3-503(b) when the acquiring person owned or
18 controlled an interest in the transferring employer or if
19 the acquiring person is a member of the immediate family of
20 the transferring employer.

21
22 **27-3-509. Election of substitute payments by certain**
23 **organizations authorized; filing and liability period;**
24 **billing; posting of security; exceptions.**

1

2 (f) Any ~~Indian tribe or tribal unit~~ employer failing
3 to make required payments under this section, including
4 assessments of interest and penalties, within ninety (90)
5 days after receipt of a bill, shall not be eligible for
6 making payments under this section for the following tax
7 year unless full payment is received by the department
8 before the contribution rates for the next tax year are
9 computed under this act, subject to the following:

10

11 (i) Any ~~Indian tribe~~ employer losing the option
12 to make payments under this section because of late
13 payments or nonpayment under this subsection shall have the
14 option reinstated if after one (1) year, all contributions
15 have been paid on a timely basis and no contributions,
16 payments instead of contributions for paid benefits,
17 penalties or interest remain outstanding;

18

19 **27-3-510. Delinquencies; interest to be charged;**
20 **deposit; collection by civil action; jeopardy assessments;**
21 **posting of bond; liability of corporate officers and**
22 **directors.**

23

1 (e) Any officer or director having at least twenty
2 percent (20%) ownership interest of a corporate employing
3 unit and any manager of a limited liability company having
4 at least twenty percent (20%) ownership interest of a
5 limited liability company employing unit, who controls or
6 supervises filing contribution reports or making payment
7 contributions under this act and who ~~willfully~~ fails to
8 file the reports or make required payments, and the
9 employing unit fails to pay the amounts due the department,
10 is liable for the contributions or reimbursement including
11 interest, penalties and costs. Liability under this
12 subsection shall:

13

14 **27-3-511. Delinquencies; lien; foreclosure; notice**
15 **and hearing; satisfaction and release; remedies not**
16 **exclusive.**

17

18 (f) Notwithstanding any other provision of this
19 section, the department may enter into installment payment
20 agreements for delinquent tax and interest liabilities
21 where repayment requirements are met and where payment in a
22 lump sum would cause severe inconvenience to the taxpayer.

23

1 (g) For purposes of this section, "employer" includes
2 those individuals described in W.S. 27-3-510(e) under the
3 conditions described in that section.

4
5 **27-3-516. Incremental bond for impact industries.**

6
7 (a) Any project in Wyoming with an estimated
8 construction cost ~~of at least one hundred million dollars~~
9 ~~(\$100,000,000.00)~~ equal to or greater than the threshold
10 construction cost defined by the industrial siting council
11 pursuant to W.S. 35-12-102(a)(vii), a majority of which is
12 planned to be completed or discontinued within a period of
13 seven (7) years, and which will require the employment of
14 at least two hundred fifty (250) people is subject to this
15 section. After the project is initiated, each employing
16 unit working on a project which meets the criteria
17 specified under this section shall report annually to the
18 department any change in contract bids within the state as
19 may have been determined under subsection (b) of this
20 section.

21
22 **27-3-607. Cooperation by department with federal and**
23 **state agencies; disclosure and submission of specified**
24 **information; limitations.**

