

ASSEMBLY, No. 2462

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 7, 1996

By Assemblymen ROMA and GEIST

1 AN ACT providing for the repayment of certain temporary disability
2 insurance benefit overpayments and amending and supplementing
3 P.L.1948, c.110.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 31 of P.L.1948, c.110 (C.43:21-55) is amended to read
9 as follows:

10 31. Penalties. (a) Whoever makes a false statement or
11 representation knowing it to be false or knowingly fails to disclose a
12 material fact, and each such false statement or representation or failure
13 to disclose a material fact shall constitute a separate offense, to obtain
14 or increase any benefit under the State plan or an approved private
15 plan, or for a disability during unemployment, either for himself or for
16 any other person, shall be liable [to] for a fine of twenty dollars
17 (\$20.00) to be paid to the [Division of Employment Security] division.
18 Upon refusal to pay such fine, the same shall be recovered in a civil
19 action by the division in the name of the State of New Jersey. If in any
20 case liability for the payment of a fine as aforesaid shall be determined,
21 any person who shall have received any benefits hereunder by reason
22 of the making of such false statements or representations or failure to
23 disclose a material fact, shall [pay to the division, the employer or
24 insurer, as the case may be, an amount equal to the sum of any benefits
25 hereunder received from the division, employer or insurer by reason
26 thereof, and such person shall] not be entitled to any benefits under
27 this act for any disability occurring prior to the time he shall have
28 discharged his liability hereunder to pay such fine[, and to reimburse
29 the division, employer or insurer].

30 (b) Any employer or any officer or agent of any employer or any
31 other person who makes a false statement or representation knowing
32 it to be false or knowingly fails to disclose a material fact, to prevent
33 or reduce the benefits to any person entitled thereto, or to avoid
34 becoming or remaining subject hereto or to avoid or reduce any

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 contribution or other payment required from an employer under this
2 act, or who willfully fails or refuses to make any such contributions or
3 other payment or to furnish any reports required hereunder or to
4 produce or permit the inspection or copying of records as required
5 hereunder, shall be liable ~~to~~ for a fine of twenty dollars (\$20.00) to
6 be paid to the division. Upon refusal to pay such fine, the same shall
7 be recovered in a civil action by the division in the name of the State
8 of New Jersey.

9 (c) Any person who shall willfully violate any provision hereof or
10 any rule or regulation made hereunder, for which a fine is neither
11 prescribed herein nor provided by any other applicable statute, shall be
12 liable to a fine of fifty dollars (\$50.00) to be paid to the division.
13 Upon the refusal to pay such fine, the same shall be recovered in a civil
14 action by the division in the name of the State of New Jersey.

15 (d) Any person, employing unit, employer or entity violating any
16 of the provisions of the above subsections with intent to defraud the
17 ~~Division of Employment Security of the State of New Jersey~~ division
18 shall in addition to the penalties hereinbefore described, be liable for
19 each offense upon conviction before the Superior Court or any
20 municipal court ~~to~~ for a fine not to exceed two hundred fifty dollars
21 (\$250.00) or by imprisonment for a term not to exceed ninety days, or
22 both, at the discretion of the court. The fine upon conviction shall be
23 payable to the State disability benefits fund of the ~~Division of~~
24 ~~Employment Security~~ division. Any penalties imposed by this
25 subsection shall be in addition to those otherwise prescribed in this
26 chapter (R.S.43:21-1 et seq.).

27 (cf: P.L.1991, c.91, s.422)

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29 2. (New section) (a) If it is determined by the division that an
30 individual for any reason has received, under the State plan, an
31 approved private plan or for a disability during unemployment, any
32 sum of disability benefits to which the individual was not entitled, the
33 individual shall, except as provided in subsection (b) of this section, be
34 liable to repay the sum in full. Except as provided in subsection (b) of
35 this section, the sum that the individual is liable to repay shall be
36 deducted from future benefits payable to the individual under this
37 chapter (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or shall
38 be repaid by the individual to the division, the employer or the insurer,
39 and that sum shall be collectible in the manner provided for by law,
40 including, but not limited to, the filing of a certificate of debt with the
41 Clerk of the Superior Court of New Jersey; except that no individual
42 who does not knowingly misrepresent or withhold any material fact to
43 obtain benefits shall be liable for any repayments or deductions against
44 future benefits unless notified before four years have elapsed from the
45 time the benefits in question were paid. The division shall promptly
46 notify the individual by certified mail of the determination and the

1 reasons for the determination. Unless the individual files an appeal of
2 the determination within 20 calendar days following the receipt of the
3 notice, the determination shall be final.

4 (b) If the individual received the overpayment of benefits because
5 of error made by the division, the employer or the physician, and if the
6 individual did not knowingly misrepresent or withhold any material
7 fact to obtain the benefits, the following limits shall apply:

8 (1) The amount withheld from any subsequent benefit check shall
9 be an amount not greater than 40% of the amount of the check; and

10 (2) All repayments of the overpayments by the individual or the
11 estate of the individual shall be waived if the individual is deceased or
12 permanently disabled.

13 Any demand for repayment from an individual pursuant to this
14 subsection shall include an explanation of the provisions of this
15 subsection.

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17 3. This act shall take effect immediately.

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STATEMENT

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22 This bill permits the State Department of Labor to obtain the
23 repayment of certain overpayments of Temporary Disability Insurance
24 (TDI) benefits. Current law requires a TDI claimant to repay TDI
25 benefit overpayments only if the claimant obtained the benefits by
26 fraud.

27 The bill requires, whether or not there was fraud, that a claimant
28 repay the overpaid amount or have it withheld from subsequent TDI
29 benefits, except that, in nonfraud cases, the bill:

30 1. Limits the amount withheld from any subsequent benefit check
31 to an amount not greater than 40% of the value of the check;

32 2. Waives all repayments when the claimant is deceased or
33 permanently disabled; and

34 3. Ends the liability of the claimant for repayment if the claimant
35 is not notified within four years of the time that the overpayment was
36 made.

37 The department estimates that this bill will enable it to recover
38 more than \$1 million per year in TDI overpayments in nonfraud cases.

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43 Provides for repayment of certain TDI benefit overpayments.