

[Passed Both Houses]

[First Reprint]

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALA committee amendments adopted November 7, 1996.

1 the division, employer or insurer].

2 (b) Any employer or any officer or agent of any employer or any
3 other person who makes a false statement or representation knowing
4 it to be false or knowingly fails to disclose a material fact, to prevent
5 or reduce the benefits to any person entitled thereto, or to avoid
6 becoming or remaining subject hereto or to avoid or reduce any
7 contribution or other payment required from an employer under this
8 act, or who willfully fails or refuses to make any such contributions or
9 other payment or to furnish any reports required hereunder or to
10 produce or permit the inspection or copying of records as required
11 hereunder, shall be liable [to] for a fine of twenty dollars (\$20.00) to
12 be paid to the division. Upon refusal to pay such fine, the same shall
13 be recovered in a civil action by the division in the name of the State
14 of New Jersey.

15 (c) Any person who shall willfully violate any provision hereof or
16 any rule or regulation made hereunder, for which a fine is neither
17 prescribed herein nor provided by any other applicable statute, shall be
18 liable to0 a fine of fifty dollars (\$50.00) to be paid to the division.
19 Upon the refusal to pay such fine, the same shall be recovered in a civil
20 action by the division in the name of the State of New Jersey.

21 (d) Any person, employing unit, employer or entity violating any
22 of the provisions of the above subsections with intent to defraud the
23 [Division of Employment Security of the State of New Jersey] division
24 shall in addition to the penalties hereinbefore described, be liable for
25 each offense upon conviction before the Superior Court or any
26 municipal court [to] for a fine not to exceed two hundred fifty dollars
27 (\$250.00) or by imprisonment for a term not to exceed ninety days, or
28 both, at the discretion of the court. The fine upon conviction shall be
29 payable to the State disability benefits fund of the [Division of
30 Employment Security] division. Any penalties imposed by this
31 subsection shall be in addition to those otherwise prescribed in this
32 chapter (R.S.43:21-1 et seq.).

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

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35 2. (New section) (a) If it is determined by the division that an
36 individual for any reason has received, under the State plan, an
37 approved private plan or for a disability during unemployment, any
38 sum of disability benefits to which the individual was not entitled, the
39 individual shall, except as provided in subsection (b) of this section, be
40 liable to repay the sum in full. Except as provided in subsection (b) of
41 this section, the sum that the individual is liable to repay shall be
42 deducted from future benefits payable to the individual under this
43 chapter (C.43:21-25 et seq.) or subsection (f) of R.S.43:21-4, or shall
44 be repaid by the individual to the division, the employer or the insurer,
45 and that sum shall be collectible in the manner provided for by law,
46 including, but not limited to, the filing of a certificate of debt with the

1 Clerk of the Superior Court of New Jersey; except that no individual
2 who does not knowingly misrepresent or withhold any material fact to
3 obtain benefits shall be liable for any repayments or deductions against
4 future benefits unless notified before four years have elapsed from the
5 time the benefits in question were paid. The division shall promptly
6 notify the individual by ¹[certified]¹ mail of the determination and the
7 reasons for the determination. Unless the individual files an appeal of
8 the determination within 20 calendar days following the receipt of the
9 notice¹, or, within 24 days after the notice was mailed to the
10 individual's last known address¹, the determination shall be final.

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

15 (1) The amount withheld from any subsequent benefit check shall
16 be an amount not greater than ¹[40%] 50%¹ of the amount of the
17 check; and

18 (2) All repayments of the overpayments by the individual or the
19 estate of the individual shall be waived if the individual is deceased or
20 permanently disabled.

21 Any demand for repayment from an individual pursuant to this
22 subsection shall include an explanation of the provisions of this
23 subsection.

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25 3. This act shall take effect immediately.

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30 Provides for repayment of certain TDI benefit overpayments.