

**2013 -- H 5689 SUBSTITUTE A**

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LC01693/SUB A/2  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2013**

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY - FRAUD  
AND ABUSE

Introduced By: Representatives Jacquard, Nunes, and Mattiello

Date Introduced: February 27, 2013

Referred To: House Judiciary

(Governor)

It is enacted by the General Assembly as follows:

1           SECTION 1. Sections 28-42-62.1 and 28-42-68 of the General Laws in Chapter 28-42  
2 entitled "Employment Security - General Provisions" are hereby amended to read as follows:

3           **28-42-62.1. Fraud and abuse.** -- (a) (1) It shall be unlawful to do any of the following:

4           (A) Make or cause to be made any knowingly false or fraudulent material statement or  
5 material representation for the purpose of obtaining or denying any benefits;

6           (B) Present or cause to be presented any knowingly false or fraudulent written or oral  
7 material statement in support of, or in opposition to, any claim for benefits or petition regarding  
8 the continuation, termination or modification of benefits;

9           (C) Knowingly assist, aid and abet, solicit, or conspire with any person who engages in  
10 an unlawful act under this section;

11           (D) Willfully misrepresent or fail to disclose any material fact in order to avoid or reduce  
12 any contribution or other payment required of an employing unit under chapters 42 -- 44 of this  
13 title;

14           (E) Willfully fail to report or provide false or misleading information regarding  
15 ownership changes as required by regulations promulgated by the department.

16           (F) Willfully make or require any deduction from wages to pay all or any portion of the  
17 contributions required from employers, or try to induce any individual to waive any right under  
18 chapters 42-44 of this title.

1 (2) For purposes of this section, "statement" includes, but is not limited to, any  
2 endorsement of a benefit check, application for registration, oral or written statement or report,  
3 proof of unemployment, or other documentation offered as proof of, or the absence of,  
4 entitlement to benefits or the amount of benefits.

5 (3) If it is determined that any person concealed or knowingly failed to disclose that  
6 which is required by law to be revealed, knowingly gave or used perjured testimony or false  
7 evidence, knowingly made a false statement of fact, participated in the creation or presentation of  
8 evidence which he knows to be false, or otherwise engaged in conduct in violation of this section,  
9 that person shall be guilty of a misdemeanor and subject in criminal proceedings to a fine and/or  
10 penalty not exceeding one thousand dollars (\$1,000), or double the value of the fraud, whichever  
11 is greater, or by imprisonment up to one year in state prison, or both.

12 (4) Beginning October 1, 2013, whenever the director establishes that an erroneous  
13 payment was made to an individual due to fraud committed by the individual, that individual will  
14 be assessed a penalty equal to fifteen percent (15%) of the amount of the erroneous payment. All  
15 penalties assessed and collected under this subsection shall be immediately deposited into the  
16 employment security fund.

17 (b) The director, in consultation with the attorney general, shall establish a form to give  
18 notice that the endorsement of a benefit check sent pursuant to chapter 44 of this title is the  
19 endorser's affirmation that he or she is qualified to receive benefits under the employment  
20 security act. The notice shall be sent to all individuals who are presently receiving benefits and  
21 given to those who file claims for benefits in the future.

22 **28-42-68. Recovery of erroneously paid benefits.** -- (a) Any individual who, by reason  
23 of a mistake or misrepresentation made by himself, herself, or another, has received any sum as  
24 benefits under chapters 42 -- 44 of this title, in any week in which any condition for the receipt of  
25 the benefits imposed by those chapters was not fulfilled by him or her, or with respect to any  
26 week in which he or she was disqualified from receiving those benefits, shall in the discretion of  
27 the director be liable to have that sum deducted from any future benefits payable to him or her  
28 under those chapters, or shall be liable to repay to the director for the employment security fund a  
29 sum equal to the amount so received, plus, if the benefits were received as a result of  
30 misrepresentation or fraud by the recipient, interest on the benefits at the rate set forth in section  
31 28-43-15. That sum shall be collectible in the manner provided in section 28-43-18 for the  
32 collection of past due contributions. All interest received pursuant to this subsection shall be  
33 credited to the unemployment security interest fund created by section 28-42-75.

34 (b) The department, by agreement with another state or the United States, as required by

1 42 USC 503(g), may recover any overpayment of benefits paid to any individual under the laws  
2 of this state or of another state or under an unemployment benefit program of the United States.  
3 Any overpayments subject to this subsection may be deducted from any future benefits payable to  
4 the individual under the laws of this state or of another state or under an unemployment program  
5 of the United States.

6 (c) Beginning October 1, 2013, whenever the director establishes that an erroneous  
7 payment was made to an individual due to fraud committed by the individual, that individual will  
8 be assessed a penalty equal to fifteen percent (15%) of the amount of the erroneous payment. All  
9 penalties assessed and collected under this subsection shall be immediately deposited into the  
10 employment security fund.

11 ~~(b)~~(d) There shall be no recovery of payments from any person who, in the judgment of  
12 the director, is without fault on his or her part and where, in the judgment of the director, that  
13 recovery would defeat the purpose of chapters 42 -- 44 of this title.

14 SECTION 2. Section 28-44-40 of the General Laws in Chapter 28-44 entitled  
15 "Employment Security - Benefits" is hereby amended to read as follows:

16 **28-44-40. Payment of benefits pending appeal.** -- (a) If an appeal is filed by an  
17 employer, benefits shall be paid to an eligible claimant until that employer's appeal is finally  
18 determined. If the employer's appeal is finally sustained, no further benefits shall be paid to the  
19 claimant during any remaining portion of the disqualification period. Any benefits paid or  
20 payable to that claimant shall not be recoverable in any manner.

21 (b) If, beginning on or after October 1, 2013, the director establishes that an erroneous  
22 payment was made to an individual due to fraud committed by the individual for overpayments  
23 and those overpayments are eligible to be recovered, that individual shall also be liable to pay  
24 penalties required under subsection 28-42-68(c) for those erroneous payments.

25 SECTION 3. This act shall take effect on October 1, 2013.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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- 1           This act would assess a penalty equal to fifteen percent (15%) of the amount of any
- 2           erroneous payment made to an individual that was due to fraud committed by the individual.
- 3           This act would take effect on October 1, 2013.

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