

**SENATE, No. 4230**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED DECEMBER 6, 2021

**Sponsored by:**

**Senator DECLAN J. O'SCANLON, JR.**

**District 13 (Monmouth)**

**SYNOPSIS**

Concerns repayment of UI benefit overpayments.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning overpayment of certain unemployment  
2 compensation and amending R.S.43:21-16.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. R.S.43:21-16 is amended to read as follows:

8 43:21-16. (a) (1) Whoever makes a false statement or  
9 representation, knowing it to be false, or knowingly fails to disclose  
10 a material fact, to obtain or increase or attempts to obtain or  
11 increase any benefit or other payment under this chapter  
12 (R.S.43:21-1 et seq.), or under an employment security law of any  
13 other state or of the federal government, either for himself or for  
14 any other person, shall be liable to a fine of 25% of the amount  
15 fraudulently obtained, to be recovered in an action at law in the  
16 name of the Division of Unemployment and Temporary Disability  
17 Insurance of the Department of Labor and Workforce Development  
18 of the State of New Jersey or as provided in subsection (e) of  
19 R.S.43:21-14, said fine when recovered shall be immediately  
20 deposited in the following manner: 10 percent of the amount  
21 fraudulently obtained deposited into the unemployment  
22 compensation auxiliary fund for the use of said fund, and 15 percent  
23 of the amount fraudulently obtained deposited into the  
24 unemployment compensation fund; and each such false statement or  
25 representation or failure to disclose a material fact shall constitute a  
26 separate offense. Any penalties imposed by this subsection shall be  
27 in addition to those otherwise prescribed in this chapter (R.S.43:21-  
28 1 et seq.).

29 (2) For purposes of any unemployment compensation program  
30 of the United States, if the department determines that any benefit  
31 amount is obtained by an individual due to fraud committed by the  
32 individual, the department shall assess a fine on the individual and  
33 deposit the recovered fine in the same manner as provided in  
34 paragraph (1) of subsection (a) of this section. As used in this  
35 paragraph, "unemployment compensation program of the United  
36 States" means:

37 (A) Unemployment compensation for federal civilian employees  
38 pursuant to 5 U.S.C. 8501 et seq.;

39 (B) Unemployment compensation for ex-service members  
40 pursuant to 5 U.S.C. 8521 et seq.;

41 (C) Trade readjustment allowances pursuant to 19 U.S.C. 2291-  
42 2294;

43 (D) Disaster unemployment assistance pursuant to 42 U.S.C.  
44 5177(a);

45 (E) Any federal temporary extension of unemployment  
46 compensation;

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

Matter underlined thus is new matter.

1 (F) Any federal program that increases the weekly amount of  
2 unemployment compensation payable to individuals; and

3 (G) Any other federal program providing for the payment of  
4 unemployment compensation.

5 (b) (1) An employing unit or any officer or agent of an  
6 employing unit or any other person who makes a false statement or  
7 representation, knowing it to be false, or who knowingly fails to  
8 disclose a material fact, to prevent or reduce the payment of  
9 benefits to any individual entitled thereto or to avoid becoming or  
10 remaining subject hereto or to avoid or reduce any contribution or  
11 other payment required from an employing unit under this chapter  
12 (R.S.43:21-1 et seq.), or under an employment security law of any  
13 other state or of the federal government, or who willfully fails or  
14 refuses to furnish any reports required hereunder (except for such  
15 reports as may be required under subsection (b) of R.S.43:21-6) or  
16 to produce or permit the inspection or copying of records, as  
17 required hereunder, shall be liable to a fine of \$100.00, or 25% of  
18 the amount fraudulently withheld, whichever is greater, to be  
19 recovered in an action at law in the name of the Division of  
20 Unemployment and Temporary Disability Insurance of the  
21 Department of Labor and Workforce Development of the State of  
22 New Jersey or as provided in subsection (e) of R.S.43:21-14, said  
23 fine when recovered to be paid to the unemployment compensation  
24 auxiliary fund for the use of said fund; and each such false  
25 statement or representation or failure to disclose a material fact, and  
26 each day of such failure or refusal shall constitute a separate  
27 offense. Any penalties imposed by this paragraph shall be in  
28 addition to those otherwise prescribed in this chapter (R.S.43:21-  
29 1 et seq.).

30 (2) Any employing unit or any officer or agent of an employing  
31 unit or any other person who fails to submit any report required  
32 under subsection (b) of R.S.43:21-6 shall be subject to a penalty of  
33 \$25.00 for the first report not submitted within 10 days after the  
34 mailing of a request for such report, and an additional \$25.00  
35 penalty may be assessed for the next 10-day period, which may  
36 elapse after the end of the initial 10-day period and before the  
37 report is filed; provided that when such report or reports are not  
38 filed within the prescribed time but it is shown to the satisfaction of  
39 the director that the failure was due to a reasonable cause, no such  
40 penalty shall be imposed. Any penalties imposed by this paragraph  
41 shall be recovered as provided in subsection (e) of R.S.43:21-14,  
42 and when recovered shall be paid to the unemployment  
43 compensation auxiliary fund for the use of said fund.

44 (3) Any employing unit, officer or agent of the employing unit,  
45 or any other person, determined by the controller to have knowingly  
46 violated, or attempted to violate, or advised another person to  
47 violate the transfer of employment experience provisions found at  
48 R.S.43:21-7 (c)(7), or who otherwise knowingly attempts to obtain

1 a lower rate of contributions by failing to disclose material  
2 information, or by making a false statement, or by a  
3 misrepresentation of fact, shall be subject to a fine of \$5,000 or  
4 25% of the contributions under-reported or attempted to be under-  
5 reported, whichever is greater, to be recovered as provided in  
6 subsection (e) of R.S.43:21-14, and when recovered to be paid to  
7 the unemployment compensation auxiliary fund for the use of said  
8 fund. For the purposes of this subsection, "knowingly" means  
9 having actual knowledge of, or acting with deliberate ignorance or  
10 reckless disregard for the prohibition involved.

11 (c) Any person who shall willfully violate any provision of this  
12 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,  
13 the violation of which is made unlawful or the observance of which  
14 is required under the terms of this chapter (R.S.43:21-1 et seq.), and  
15 for which a penalty is neither prescribed herein nor provided by any  
16 other applicable statute, shall be liable to a fine of \$50.00, to be  
17 recovered in an action at law in the name of the Division of  
18 Unemployment and Temporary Disability Insurance of the  
19 Department of Labor and Workforce Development of the State of  
20 New Jersey or as provided in subsection (e) of R.S.43:21-14, said  
21 fine when recovered to be paid to the unemployment compensation  
22 auxiliary fund for the use of said fund; and each day such violation  
23 continues shall be deemed to be a separate offense.

24 (d) (1) When it is determined by a representative or  
25 representatives designated by the Director of the Division of  
26 Unemployment and Temporary Disability Insurance of the  
27 Department of Labor and Workforce Development of the State of  
28 New Jersey that any person, **【whether (i)】** by reason of the  
29 knowing, fraudulent nondisclosure or misrepresentation by him or  
30 by another of a material fact **【(whether or not such nondisclosure or**  
31 **misrepresentation was known or fraudulent), or (ii) for any other**  
32 **reason】**, has received any sum as benefits under this chapter  
33 (R.S.43:21-1 et seq.) while any conditions for the receipt of benefits  
34 imposed by this chapter (R.S.43:21-1 et seq.) were not fulfilled in  
35 his case, or while he was disqualified from receiving benefits, or  
36 while otherwise not entitled to receive such sum as benefits, such  
37 person, unless the director (with the concurrence of the controller)  
38 directs otherwise by regulation, shall be liable to repay those  
39 benefits in full. If the representative finds that the person received  
40 the overpayment of benefits for any reason other than knowing,  
41 fraudulent nondisclosure or misrepresentation, the person shall not  
42 be liable to repay all or any portion of the overpayment which  
43 occurred before the finding of the overpayment. The employer's  
44 account shall not be charged for the amount of an overpayment of  
45 benefits if the overpayment was caused by an error of the division  
46 and not by any error of the employer. The sum shall be deducted  
47 from any future benefits payable to the individual under this chapter  
48 (R.S.43:21-1 et seq.) or shall be paid by the individual to the

1 division for the unemployment compensation fund, and such sum  
2 shall be collectible in the manner provided for by law, including,  
3 but not limited to, the filing of a certificate of debt with the Clerk of  
4 the Superior Court of New Jersey; provided, however, that, except  
5 in the event of fraud, no person shall be liable for any such refunds  
6 or deductions against future benefits unless so notified before four  
7 years have elapsed from the time the benefits in question were paid.  
8 Such person shall be promptly notified of the determination and the  
9 reasons therefor. The determination shall be final unless the person  
10 files an appeal of the determination within seven calendar days after  
11 the delivery of the determination, or within 10 calendar days after  
12 such notification was mailed to his last-known address, for any  
13 determination made on or before December 1, 2010, and any initial  
14 determination made pursuant to paragraph (1) of subsection (b) of  
15 R.S.43:21-6 after December 1, 2010, or within 20 calendar days  
16 after the delivery of such determination, or within 20 calendar days  
17 after such notification was mailed to his last-known address, for any  
18 determination other than an initial determination made after  
19 December 1, 2010.

20 (2) Interstate and cross-offset of state and federal unemployment  
21 benefits. To the extent permissible under the laws and Constitution  
22 of the United States, the commissioner is authorized to enter into or  
23 cooperate in arrangements or reciprocal agreements with  
24 appropriate and duly authorized agencies of other states or the  
25 United States Secretary of Labor, or both, whereby:

26 (A) Overpayments of unemployment benefits as determined  
27 under subsection (d) of R.S.43:21-16 shall be recovered by offset  
28 from unemployment benefits otherwise payable under the  
29 unemployment compensation law of another state, and  
30 overpayments of unemployment benefits as determined under the  
31 unemployment compensation law of another state shall be  
32 recovered by offset from unemployment benefits otherwise payable  
33 under R.S.43:21-1 et seq.; and

34 (B) Overpayments of unemployment benefits as determined  
35 under applicable federal law, with respect to benefits or allowances  
36 for unemployment provided under a federal program administered  
37 by this State under an agreement with the United States Secretary of  
38 Labor, shall be recovered by offset from unemployment benefits  
39 otherwise payable under R.S.43:21-1 et seq., or any federal program  
40 administered by this State, or under the unemployment  
41 compensation law of another state or any federal unemployment  
42 benefit or allowance program administered by another state under  
43 an agreement with the United States Secretary of Labor, if the other  
44 state has in effect a reciprocal agreement with the United States  
45 Secretary of Labor as authorized by subsection (g) of 42  
46 U.S.C.s.503, and if the United States agrees, as provided in the  
47 reciprocal agreement with this State entered into under subsection  
48 (g) of 42 U.S.C.s.503, that overpayments of unemployment benefits

1 as determined under subsection (d) of R.S.43:21-16 and  
2 overpayments as determined under the unemployment  
3 compensation law of another state which has in effect a reciprocal  
4 agreement with the United States Secretary of Labor as authorized  
5 by subsection (g) of 42 U.S.C.s.503, shall be recovered by offset  
6 from benefits or allowances otherwise payable under a federal  
7 program administered by this State or another state under an  
8 agreement with the United States Secretary of Labor.

9 (e) (1) Any employing unit, or any officer or agent of an  
10 employing unit, which officer or agent is directly or indirectly  
11 responsible for collecting, truthfully accounting for, remitting when  
12 payable any contribution, or filing or causing to be filed any report  
13 or statement required by this chapter, or employer, or person failing  
14 to remit, when payable, any employer contributions, or worker  
15 contributions (if withheld or deducted), or the amount of such  
16 worker contributions (if not withheld or deducted), or filing or  
17 causing to be filed with the controller or the Division of  
18 Unemployment and Temporary Disability Insurance of the  
19 Department of Labor and Workforce Development of the State of  
20 New Jersey, any false or fraudulent report or statement, and any  
21 person who aids or abets an employing unit, employer, or any  
22 person in the preparation or filing of any false or fraudulent report  
23 or statement with intent to defraud the State of New Jersey or an  
24 employment security agency of any other state or of the federal  
25 government, or with intent to evade the payment of any  
26 contributions, interest or penalties, or any part thereof, which shall  
27 be due under the provisions of this chapter (R.S.43:21-1 et seq.),  
28 shall be liable for each offense upon conviction before any Superior  
29 Court or municipal court, to a fine not to exceed \$1,000.00 or by  
30 imprisonment for a term not to exceed 90 days, or both, at the  
31 discretion of the court. The fine upon conviction shall be payable to  
32 the unemployment compensation auxiliary fund. Any penalties  
33 imposed by this subsection shall be in addition to those otherwise  
34 prescribed in this chapter (R.S.43:21-1 et seq.).

35 (2) Any employing unit, officer or agent of the employing unit,  
36 or any other person, who knowingly violates, or attempts to violate,  
37 or advise another person to violate the transfer of employment  
38 experience provisions found at R.S.43:21-7 (c)(7) shall be, upon  
39 conviction before any Superior Court or municipal court, guilty of a  
40 crime of the fourth degree. For the purposes of this subsection,  
41 "knowingly" means having actual knowledge of, or acting with  
42 deliberate ignorance or reckless disregard for the prohibition  
43 involved.

44 (f) Any employing unit or any officer or agent of an employing  
45 unit or any other person who aids and abets any person to obtain  
46 any sum of benefits under this chapter to which he is not entitled, or  
47 a larger amount as benefits than that to which he is justly entitled,  
48 shall be liable for each offense upon conviction before any Superior

1 Court or municipal court, to a fine not to exceed \$1,000.00 or by  
2 imprisonment for a term not to exceed 90 days, or both, at the  
3 discretion of the court. The fine upon conviction shall be payable to  
4 the unemployment compensation auxiliary fund. Any penalties  
5 imposed by this subsection shall be in addition to those otherwise  
6 prescribed in this chapter (R.S.43:21-1 et seq.).

7 (g) There shall be created in the Division of Unemployment and  
8 Temporary Disability Insurance of the Department of Labor and  
9 Workforce Development of the State of New Jersey an investigative  
10 staff for the purpose of investigating violations referred to in this  
11 section and enforcing the provisions thereof.

12 (h) An employing unit or any officer or agent of an employing  
13 unit who makes a false statement or representation, knowing it to be  
14 false, or who knowingly fails to disclose a material fact, to reduce  
15 benefit charges to the employing unit pursuant to paragraph (1) of  
16 subsection (c) of R.S.43:21-7, shall be liable to a fine of \$1,000, to  
17 be recovered in an action at law in the name of the Division of  
18 Unemployment and Temporary Disability Insurance of the  
19 Department of Labor and Workforce Development of the State of  
20 New Jersey or as provided in subsection (e) of R.S.43:21-14. The  
21 fine when recovered shall be paid to the unemployment  
22 compensation auxiliary fund for the use of the fund. Each false  
23 statement or representation or failure to disclose a material fact, and  
24 each day of that failure or refusal shall constitute a separate offense.  
25 Any penalties imposed by this subsection shall be in addition to  
26 those otherwise prescribed in R.S.43:21-1 et seq.

27 (i) The Department of Labor and Workforce Development shall  
28 arrange for the electronic receipt of death record notifications from  
29 the New Jersey Electronic Death Registration System, pursuant to  
30 section 16 of P.L.2003, c.221 (C.26:8-24.1), and establish a  
31 verification system to confirm that benefits paid pursuant to the  
32 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25  
33 et al.), and the "unemployment compensation law," R.S.43:21-1 et  
34 seq., are not being paid to deceased individuals.

35 (j) The Department of Labor and Workforce Development shall  
36 arrange for the electronic receipt of identifying information from  
37 the Department of Corrections, pursuant to section 6 of P.L.1976,  
38 c.98 (C.30:1B-6), and from the Administrative Office of the Courts  
39 and any county which does not provide county inmate incarceration  
40 information to the Administrative Office of the Courts, and  
41 establish a verification system to confirm that benefits paid  
42 pursuant to the "unemployment compensation law," R.S.43:21-1 et  
43 seq., are not being paid to individuals who are incarcerated.  
44 (cf: P.L.2013, c.274, s.5)

45

46 2. This act shall take effect immediately.

