

House File 2363 - Introduced

HOUSE FILE 2363
BY COMMITTEE ON LABOR

(SUCCESSOR TO HSB 557)

A BILL FOR

1 An Act relating to unemployment insurance employer charges and
2 claimant misrepresentation regarding benefit overpayments,
3 providing a penalty, and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 96.3, subsection 7, paragraph b,
2 subparagraph (1), Code 2011, is amended to read as follows:

3 (1) (a) If the department determines that an overpayment
4 has been made, the charge for the overpayment against the
5 employer's account shall be removed and the account shall
6 be credited with an amount equal to the overpayment from
7 the unemployment compensation trust fund and this credit
8 shall include both contributory and reimbursable employers,
9 notwithstanding section 96.8, subsection 5. The employer shall
10 not be relieved of charges if benefits are paid because the
11 employer or an agent of the employer failed to respond timely
12 or adequately to the department's request for information
13 relating to the payment of benefits. This prohibition
14 against relief of charges shall apply to both contributory and
15 reimbursable employers.

16 (b) However, provided the benefits were not received as the
17 result of fraud or willful misrepresentation by the individual,
18 benefits shall not be recovered from an individual if the
19 employer did not participate in the initial determination to
20 award benefits pursuant to section 96.6, subsection 2, and
21 an overpayment occurred because of a subsequent reversal on
22 appeal regarding the issue of the individual's separation
23 from employment. ~~The employer shall not be charged with the~~
24 ~~benefits.~~

25 Sec. 2. Section 96.16, subsection 4, Code 2011, is amended
26 to read as follows:

27 4. *Misrepresentation.*

28 a. An individual who, by reason of the nondisclosure or
29 misrepresentation by the individual or by another of a material
30 fact, has received any sum as benefits under this chapter
31 while any conditions for the receipt of benefits imposed by
32 this chapter were not fulfilled in the individual's case, or
33 while the individual was disqualified from receiving benefits,
34 shall, in the discretion of the department, either be liable
35 to have the sum deducted from any future benefits payable to

1 the individual under this chapter or shall be liable to repay
2 to the department for the unemployment compensation fund, a
3 sum equal to the amount so received by the individual. If
4 the department seeks to recover the amount of the benefits by
5 having the individual pay to the department a sum equal to that
6 amount, the department may file a lien with the county recorder
7 in favor of the state on the individual's property and rights
8 to property, whether real or personal. The amount of the lien
9 shall be collected in a manner similar to the provisions for
10 the collection of past-due contributions in section 96.14,
11 subsection 3.

12 b. The department shall assess a penalty equal to fifteen
13 percent of the amount of a fraudulent overpayment. The penalty
14 shall be collected in the same manner as the overpayment. The
15 penalty shall be added to the amount of any lien filed pursuant
16 to paragraph "a" and shall not be deducted from any future
17 benefits payable to the individual under this chapter. Funds
18 received for overpayment penalties shall be deposited in the
19 unemployment trust fund.

20 Sec. 3. APPLICABILITY. The section of this Act relating
21 to relief of charges applies to any overpayment determination
22 issued on or after July 1, 2012. The section of this Act
23 providing a penalty relating to fraudulent overpayment applies
24 to any fraudulent overpayment issued on or after July 1, 2012.

25 EXPLANATION

26 This bill prohibits the department of workforce development
27 from relieving an employer of charges against the employer's
28 account for an overpayment of unemployment compensation
29 benefits if the overpayment occurred because the employer or an
30 agent of the employer failed to respond timely or adequately
31 to the department's request for information relating to the
32 payment of the benefits.

33 The bill removes the prohibition against charging an
34 employer's account for an overpayment of unemployment
35 compensation benefits when the overpayment is not recovered

1 from the claimant because the employer did not participate in
2 an initial determination to award benefits and the overpayment
3 occurred because of a subsequent reversal on appeal regarding
4 the issue of the claimant's separation from employment.

5 The bill establishes a penalty on individuals who receive
6 unemployment compensation benefits through fraud. The penalty
7 is equal to 15 percent of the amount of the overpayment and is
8 to be collected in the same manner as the overpayment but shall
9 not be collected from any future benefits.

10 The bill applies to any overpayment determination or
11 fraudulent overpayment issued on or after July 1, 2012.