

CHAPTER 97

LABOR AND INDUSTRY

HOUSE BILL 13-1124

BY REPRESENTATIVE(S) Pabon and Stephens, Williams, Melton, Duran, Hullinghorst, Labuda, Young;
also SENATOR(S) Jahn, Tochtrop, Newell.

AN ACT

CONCERNING THE REDUCTION OF IMPROPER UNEMPLOYMENT INSURANCE BENEFIT PAYMENTS THROUGH COMPLIANCE WITH THE FEDERAL "TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 8-79-102, **add** (5) as follows:

8-79-102. Collection of premiums and surcharges, benefit overpayments, penalties, and interest - rules. (5) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE DIVISION SHALL CHARGE AN EMPLOYER'S ACCOUNT FOR AN IMPROPER PAYMENT FROM THE UNEMPLOYMENT COMPENSATION FUND IF THE DIVISION DETERMINES THAT:

(I) THE PAYMENT WAS MADE BECAUSE THE EMPLOYER, OR AN AGENT OF THE EMPLOYER, WAS AT FAULT FOR FAILING TO RESPOND TIMELY OR ADEQUATELY TO THE REQUEST OF THE DIVISION FOR INFORMATION RELATING TO THE CLAIM FOR COMPENSATION; AND

(II) THE EMPLOYER OR AGENT HAS ESTABLISHED A PATTERN OF FAILING TO RESPOND TIMELY OR ADEQUATELY TO SUCH REQUESTS.

(b) THE DIVISION SHALL PROMULGATE RULES TO SPECIFY WHAT FACTORS AND FREQUENCY CONSTITUTE A PATTERN OF FAILING TO RESPOND TIMELY OR ADEQUATELY FOR PURPOSES OF ENFORCING THIS SUBSECTION (5).

SECTION 2. In Colorado Revised Statutes, 8-81-101, **amend** (4) (a) (II) as follows:

8-81-101. Penalties. (4) (a) (II) If any person receives ~~any such~~ AN overpayment

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

because of his or her false representation or willful failure to disclose a material fact, inequity shall MUST not be a consideration in any civil, administrative, or criminal action, and the person shall be required to pay TO THE DIVISION the total amount of the overpayment which shall be paid PLUS A SIXTY-FIVE PERCENT MONETARY PENALTY. OF THE MONETARY PENALTY, THE DIVISION SHALL PAY TWENTY-THREE PERCENT into the unemployment trust COMPENSATION fund, plus a penalty of fifty percent of such overpayment, which shall be paid CREATED IN SECTION 8-77-101, AND THE REMAINDER into the unemployment revenue fund, CREATED IN SECTION 8-77-106. In addition, such THE person may be denied benefits, when otherwise eligible, for a four-week period for each one-week period in which such THE person filed claims for or received benefits to which he or she was not entitled. The provisions of section 13-80-108 (9), C.R.S., shall be used for determining when an offense is committed for the purposes of this subparagraph (II).

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the unemployment revenue fund created in section 8-77-106, Colorado Revised Statutes, not otherwise appropriated, to the department of labor and employment, for the fiscal year beginning July 1, 2013, the sum of \$144,564, or so much thereof as may be necessary, for allocation to the division of unemployment insurance related to the implementation of this act.

SECTION 4. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 7, 2013, if adjournment sine die is on May 8, 2013); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to improper payments from the unemployment compensation fund on or after the applicable effective date of this act.

Approved: April 4, 2013