

UNEMPLOYMENT COMPENSATION FRAUD
AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Neal B. Hendrickson

AN ACT RELATING TO WORKFORCE SERVICES; AMENDING THE CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYMENT SECURITY ACT.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

35A-4-104, as last amended by Chapters 10, 201 and 375, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **35A-4-104** is amended to read:

35A-4-104. Violations of chapter -- Penalties.

(1) (a) Any person who makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter or under the Unemployment Compensation Law of any state or of the Federal Government, either for himself or for any other person, is guilty of [a class A misdemeanor.]:

~~[(b) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under Subsection (1) shall be not less than \$50, and a penalty of imprisonment shall be for not longer than 60 days.]~~

~~[(c) Each false statement or representation or failure to disclose a material fact constitutes a separate offense.]~~

(i) a class B misdemeanor when the value of the money obtained or sought to be obtained is less than \$300;

(ii) a class A misdemeanor when the value of the money obtained or sought to be obtained is or exceeds \$300 but is less than \$1,000;

(iii) a third degree felony when the value of the money obtained or sought to be obtained is or exceeds \$1,000 but is less than \$5,000; or

(iv) a second degree felony when the value of the money obtained or sought to be obtained is or exceeds \$5,000.

(b) The determination of the degree of any offense under Subsection (1)(a) shall be measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

(2) (a) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining a subject employer or to avoid or reduce any contribution or other payment required from an employing unit under this chapter or under the Unemployment Compensation Law of any state or of the federal government, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required in this chapter or to produce or permit the inspection or copying of records as required hereunder is guilty of [a class A misdemeanor.]:

~~[(b) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under Subsection (2) shall be not less than \$50 and a penalty of imprisonment shall be for not longer than 60 days.]~~

~~[(c) Each false statement or representation or failure to disclose a material fact, and each day of the failure or refusal constitutes a separate offense.]~~

(i) a class B misdemeanor when the value of the money obtained or sought to be obtained is less than \$300;

(ii) a class A misdemeanor when the value of the money obtained or sought to be obtained is or exceeds \$300 but is less than \$1,000;

(iii) a third degree felony when the value of the money obtained or sought to be obtained is or exceeds \$1,000 but is less than \$5,000; or

(iv) a second degree felony when the value of the money obtained or sought to be obtained is or exceeds \$5,000.

(b) The determination of the degree of any offense under Subsection (2)(a) shall be measured by the total value of all money obtained or sought to be obtained by the unlawful conduct.

~~[(d)]~~ (c) The division shall promptly inform the Division of Occupational and Professional Licensing within the Department of Commerce if it has reason to believe that an employee leasing company has violated Subsection (2)(a).

(3) (a) Any person who willfully violates any provision of this chapter or any order or rule made under this chapter, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which a penalty is neither prescribed in this chapter nor provided by any other applicable statute is guilty of a class A misdemeanor.

~~[(b) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under Subsection (3) shall be not less than \$50, and a penalty of imprisonment shall be for not longer than 60 days.]~~

~~[(c)]~~ (b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.

(4) ~~[(a)]~~ If any employee of the department, in violation of Section 35A-4-312, makes any disclosure of information obtained from any employing unit or individual in the administration of this chapter, or if any person who has obtained any list of applicants for work, or of claimants or recipients of benefits, under this chapter shall use or permit the use of such list for any political purpose, he is guilty of a class A misdemeanor.

~~[(b) Notwithstanding Sections 76-3-204 and 76-3-301, a fine imposed under Subsection (4) shall be not less than \$50, and a penalty of imprisonment shall be for not longer than 60 days.]~~

(5) The penalties for felony and misdemeanor offenses are set forth in Title 76, Chapter 3, Punishments.