

1 UNEMPLOYMENT COMPENSATION FRAUD

2 AMENDMENTS

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 Sponsor: Neal B. Hendrickson

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

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

9 AMENDS:

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

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

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

13 35A-4-104. Violations of chapter -- Penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 company has violated Subsection (2)(a).

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

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

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

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

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

16 (5) The penalties for felony and misdemeanor offenses are set forth in Title 78, Chapter
17 3, Punishments.

Legislative Review Note
as of 12-30-97 1:12 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel