

1 **WORKFORCE SERVICES - REPORTING**
2 **MISUSE OF PERSONAL IDENTIFYING**
3 **INFORMATION**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Carlene M. Walker**

7 House Sponsor: David Clark

8 Cosponsors:
9 Dan R. Eastman

 John W. Hickman

 Peter C. Knudson

11 **LONG TITLE**

12 **General Description:**

13 This bill modifies the Employment Security Act by allowing the Department of
14 Workforce Services to disclose to an individual and law enforcement agencies
15 responsible for investigating identity fraud the suspected misuse of the individual's
16 personal identifying information.

17 **Highlighted Provisions:**

18 This bill:

19 ▶ provides that the Department of Workforce Services may disclose to an individual
20 the suspected misuse of the individual's personal identifying information;

21 ▶ provides that the suspected misuse may also be reported to appropriate law
22 enforcement agencies responsible for investigating identity fraud violations;

23 ▶ provides that the suspected use of personal identifying information includes a Social
24 Security number under which wages are being reported by two or more individuals
25 or that of an individual under the age of 16 with reported wages exceeding \$1,000
26 for a single reporting quarter; and

27 ▶ reduces from a class A to a class C misdemeanor a violation of the disclosure
28 provisions of Section 35A-4-312.

29 **Monies Appropriated in this Bill:**

30 None

31 **Other Special Clauses:**

32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **76-8-1301**, as enacted by Chapter 135, Laws of Utah 2003

36 ENACTS:

37 **35A-4-312.5**, Utah Code Annotated 1953



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

40 Section 1. Section **35A-4-312.5** is enacted to read:

41 **35A-4-312.5. Suspected misuse of personal identifying information.**

42 (1) As used in this section:

43 (a) "Personal identifying information" has the same meaning as defined in Section
44 76-6-1102.

45 (b) "Suspected misuse of personal identifying information" includes:

46 (i) a Social Security number under which wages are being reported by two or more
47 individuals; or

48 (ii) a Social Security number of an individual under the age of 16 with reported wages
49 exceeding \$1,000 for a single reporting quarter.

50 (2) Notwithstanding Section 35A-4-312, if the department records disclose a suspected
51 misuse of personal identifying information by an individual other than the purported owner of
52 the information, the department may:

53 (a) inform the purported owner of the information or, if the purported owner is a minor,
54 the minor's parent or guardian, of the suspected misuse; and

55 (b) provide information of the suspected misuse to an appropriate law enforcement
56 agency responsible for investigating an identity fraud violation.

57 Section 2. Section **76-8-1301** is amended to read:

58 **76-8-1301. False statements regarding unemployment compensation -- Penalties.**

59 (1) (a) A person who makes a false statement or representation knowing it to be false
60 or knowingly fails to disclose a material fact, to obtain or increase a benefit or other payment
61 under Title 35A, Chapter 4, Employment Security Act, or under the Unemployment
62 Compensation Law of any state or of the federal government for any person is guilty of
63 unemployment insurance fraud.

64 (b) A violation of Subsection (1)(a) is:

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

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

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

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

73 (c) The determination of the degree of an offense under Subsection (1)(b) shall be
74 measured by the total value of all money obtained or sought to be obtained by the unlawful
75 conduct.

76 (2) (a) An officer or agent of an employing unit as defined in Section 35A-4-202 or any
77 other person who makes a false statement or representation knowing it to be false, or who
78 knowingly fails to disclose a material fact, to prevent or reduce the payment of unemployment
79 compensation benefits to an individual entitled to those benefits, or to avoid becoming or
80 remaining a subject employer or to avoid or reduce any contribution or other payment required
81 from an employing unit under Title 35A, Chapter 4, Employment Security Act, or under the
82 Unemployment Compensation Law of any state or of the federal government, or who willfully
83 fails or refuses to make a contribution or other payment or to furnish any report required in
84 Title 35A, Chapter 4, Employment Security Act, or to produce or permit the inspection or
85 copying of records as required under that chapter is guilty of unemployment insurance fraud.

86 (b) A violation of Subsection (2)(a) is:

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

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

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

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

95 (3) (a) A person who willfully violates any provision of Title 35A, Chapter 4,
96 Employment Security Act, or any order or rule made under that chapter, the violation of which
97 is made unlawful or the observance of which is required under the terms of that chapter, and
98 for which a penalty is neither prescribed in that chapter nor provided by any other applicable
99 statute is guilty of a class A misdemeanor.

100 (b) Each day a violation of Subsection (3)(a) continues shall be a separate offense.

101 (4) A person is guilty of a class [~~A~~] C misdemeanor if:

102 (a) as an employee of the Department of Workforce Services, in willful violation of
103 Section 35A-4-312, the employee makes a disclosure of information obtained from an
104 employing unit or individual in the administration of Title 35A, Chapter 4, Employment
105 Security Act; or

106 (b) the person has obtained a list of applicants for work or of claimants or recipients of
107 benefits under Title 35A, Chapter 4, Employment Security Act, and uses or permits the use of
108 the list for any political purpose.