

43:21-16

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 43:21-16 (Unemployment--interstate recovery)

LAWS OF: 1991 CHAPTER: 357

Bill No: A729

Sponsor(s): Smith

Date Introduced: Pre-filed

Committee: Assembly: Labor

Senate: Labor

Amended during passage: No

Date of Passage: Assembly: June 7, 1990

Senate: December 12, 1991

Date of Approval: January 9, 1992

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

KBG/dgw

1 AN ACT providing for the interstate recovery of overpaid
2 unemployment benefits and amending R.S.43:21-16.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. R.S.43:21-16 is amended to read as follows:

7 43:21-16. (a) Whoever makes a false statement or
8 representation, knowing it to be false, or knowingly fails to
9 disclose a material fact, to obtain or increase or attempts to
10 obtain or increase any benefit or other payment under this
11 chapter (R.S.43:21-1 et seq.), or under an employment security
12 law of any other state or of the federal government, either for
13 himself or for any other person, shall be liable to a fine of \$20.00
14 for each offense, or 25% of the amount fraudulently obtained,
15 whichever is greater, to be recovered in an action at law in the
16 name of the Division of Unemployment and Temporary Disability
17 Insurance of the Department of Labor of the State of New Jersey
18 or as provided in subsection (e) of [section] R.S.43:21-14, said
19 fine when recovered to be paid to the unemployment
20 compensation auxiliary fund for the use of said fund; and each
21 such false statement or representation or failure to disclose a
22 material fact shall constitute a separate offense. Any penalties
23 imposed by this subsection shall be in addition to those otherwise
24 prescribed in this chapter (R.S.43:21-1 et seq.).

25 (b) (1) An employing unit or any officer or agent of an
26 employing unit or any other person who makes a false statement
27 or representation, knowing it to be false, or who knowingly fails
28 to disclose a material fact, to prevent or reduce the payment of
29 benefits to any individual entitled thereto or to avoid becoming
30 or remaining subject hereto or to avoid or reduce any
31 contribution or other payment required from an employing unit
32 under this chapter (R.S.43:21-1 et seq.), or under an employment
33 security law of any other state or of the federal government, or
34 who willfully fails or refuses to furnish any reports required
35 hereunder (except for such reports as may be required under
36 [paragraph] subsection (b) of R.S.43:21-6[(b) of this Title]) or to
37 produce or permit the inspection or copying of records, as
38 required hereunder, shall be liable to a fine of \$100.00, to be

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 recovered in an action at law in the name of the Division of
2 Unemployment and Temporary Disability Insurance of the
3 Department of Labor of the State of New Jersey or as provided in
4 subsection (e) of [section] R.S.43:21-14, said fine when recovered
5 to be paid to the unemployment compensation auxiliary fund for
6 the use of said fund; and each such false statement or
7 representation or failure to disclose a material fact, and each day
8 of such failure or refusal shall constitute a separate offense. Any
9 penalties imposed by this paragraph shall be in addition to those
10 otherwise prescribed in this chapter (R.S.43:21-1 et seq.).

11 Any employing unit or any officer or agent of an employing
12 unit or any other person who fails to submit any report required
13 under [paragraph] subsection (b) of R.S.43:21-6[(b) of this Title]
14 shall be subject to a penalty of \$25.00 for the first report not
15 submitted within 10 days after the mailing of a request for such
16 report, and an additional \$25.00 penalty may be assessed for the
17 next 10-day period, which may elapse after the end of the initial
18 10-day period and before the report is filed; provided that when
19 such report or reports are not filed within the prescribed time but
20 it is shown to the satisfaction of the director that the failure was
21 due to a reasonable cause, no such penalty shall be imposed. Any
22 penalties imposed by this paragraph shall be recovered as
23 provided in subsection (e) of [section] R.S.43:21-14 [of this Title],
24 and when recovered shall be paid to the unemployment
25 compensation auxiliary fund for the use of said fund.

26 (c) Any person who shall willfully violate any provision of this
27 chapter (R.S.43:21-1 et seq.) or any rule or regulation thereunder,
28 the violation of which is made unlawful or the observance of
29 which is required under the terms of this chapter (R.S.43:21-1 et
30 seq.), and for which a penalty is neither prescribed herein nor
31 provided by any other applicable statute, shall be liable to a fine
32 of \$50.00, to be recovered in an action at law in the name of the
33 Division of Unemployment and Temporary Disability Insurance of
34 the Department of Labor of the State of New Jersey or as
35 provided in subsection (e) of [section] R.S.43:21-14, said fine
36 when recovered to be paid to the unemployment compensation
37 auxiliary fund for the use of said fund; and each day such
38 violation continues shall be deemed to be a separate offense.

39 (d) (1) When it is determined by a representative or
40 representatives designated by the Director of the Division of
41 Unemployment and Temporary Disability Insurance of the
42 Department of Labor of the State of New Jersey that any person,
43 whether (i) by reason of the nondisclosure or misrepresentation by
44 him or by another of a material fact (whether or not such
45 nondisclosure or misrepresentation was known or fraudulent), or
46 (ii) for any other reason, has received any sum as benefits under
47 this chapter (R.S.43:21-1 et seq.) while any conditions for the
48 receipt of benefits imposed by this chapter (R.S.43:21-1 et seq.)

1 were not fulfilled in his case, or while he was disqualified from
2 receiving benefits, or while otherwise not entitled to receive such
3 sum as benefits, such person, unless the director (with the
4 concurrence of the controller) directs otherwise by regulation,
5 shall be liable to repay those benefits in full. The sum shall be
6 deducted from any future benefits payable to the individual under
7 this chapter (R.S.43:21-1 et seq.) or shall be paid by the
8 individual to the division for the unemployment compensation
9 fund, and such sum shall be collectible in the manner provided for
10 by law, including, but not limited to, the filing of a certificate of
11 debt with the Clerk of the Superior Court of New Jersey;
12 provided, however, that, except in the event of fraud, no person
13 shall be liable for any such refunds or deductions against future
14 benefits unless so notified before four years have elapsed from
15 the time the benefits in question were paid. Such person shall be
16 promptly notified of the determination and the reasons therefor.
17 Unless such person, within seven calendar days after the delivery
18 of such determination, or within 10 calendar days after such
19 notification was mailed to his last-known address, files an appeal
20 from such determination, such determination shall be final.

21 (2) Interstate and cross-offset of state and federal
22 unemployment benefits. To the extent permissible under the laws
23 and Constitution of the United States, the commissioner is
24 authorized to enter into or cooperate in arrangements or
25 reciprocal agreements with appropriate and duly authorized
26 agencies of other states or the United States Secretary of Labor,
27 or both, whereby:

28 (A) Overpayments of unemployment benefits as determined
29 under subsection (d) of R.S.43:21-16 shall be recovered by offset
30 from unemployment benefits otherwise payable under the
31 unemployment compensation law of another state, and
32 overpayments of unemployment benefits as determined under the
33 unemployment compensation law of another state shall be
34 recovered by offset from unemployment benefits otherwise
35 payable under R.S.43:21-1 et seq.; and

36 (B) Overpayments of unemployment benefits as determined
37 under applicable federal law, with respect to benefits or
38 allowances for unemployment provided under a federal program
39 administered by this State under an agreement with the United
40 States Secretary of Labor, shall be recovered by offset from
41 unemployment benefits otherwise payable under R.S.43:21-1 et
42 seq., or any federal program administered by this State, or under
43 the unemployment compensation law of another state or any
44 federal unemployment benefit or allowance program administered
45 by another state under an agreement with the United States
46 Secretary of Labor, if the other state has in effect a reciprocal
47 agreement with the United States Secretary of Labor as
48 authorized by subsection (g) of 42 U.S.C. §503, and if the United

1 States agrees, as provided in the reciprocal agreement with this
2 State entered into under subsection (g) of 42 U.S.C. §603, that
3 overpayments of unemployment benefits as determined under
4 subsection (d) of R.S.43:21-16 and overpayments as determined
5 under the unemployment compensation law of another state
6 which has in effect a reciprocal agreement with the United
7 States Secretary of Labor as authorized by subsection (g) of 42
8 U.S.C. §603, shall be recovered by offset from benefits or
9 allowances otherwise payable under a federal program
10 administered by this State or another state under an agreement
11 with the United States Secretary of Labor.

12 (e) Any employing unit, or any officer or agent of an
13 employing unit, which officer or agent is directly or indirectly
14 responsible for collecting, truthfully accounting for, remitting
15 when payable any contribution, or filing or causing to be filed any
16 report or statement required by this chapter, or employer, or
17 person failing to remit, when payable, any employer
18 contributions, or worker contributions (if withheld or deducted),
19 or the amount of such worker contributions (if not withheld or
20 deducted), or filing or causing to be filed with the controller or
21 the Division of Unemployment and Temporary Disability
22 Insurance of the Department of Labor of the State of New
23 Jersey, any false or fraudulent report or statement, and any
24 person who aids or abets an employing unit, employer, or any
25 person in the preparation or filing of any false or fraudulent
26 report or statement with intent to defraud the State of New
27 Jersey or an employment security agency of any other state or of
28 the federal government, or with intent to evade the payment of
29 any contributions, interest or penalties, or any part thereof,
30 which shall be due under the provisions of this chapter
31 (R.S.43:21-1 et seq.), shall be liable for each offense upon
32 conviction before any Superior Court or municipal court, to a fine
33 not to exceed \$1,000.00 or by imprisonment for a term not to
34 exceed 90 days, or both, at the discretion of the court. The fine
35 upon conviction shall be payable to the unemployment
36 compensation auxiliary fund. Any penalties imposed by this
37 subsection shall be in addition to those otherwise prescribed in
38 this chapter (R.S.43:21-1 et seq.).

39 (f) Any employing unit or any officer or agent of an employing
40 unit or any other person who aids and abets any person to obtain
41 any sum of benefits under this chapter to which he is not entitled,
42 ~~or a larger amount as benefits than that to which he is justly~~
43 entitled, shall be liable for each offense upon conviction before
44 any Superior Court or municipal court, to a fine not to exceed
45 \$1,000.00 or by imprisonment for a term not to exceed 90 days,
46 or both, at the discretion of the court. The fine upon conviction
47 shall be payable to the unemployment compensation auxiliary
48 fund. Any penalties imposed by this subsection shall be in

1 addition to those otherwise prescribed in this chapter
2 (R.S.43:21-1 et seq.).

3 (g) There shall be created in the Division of Unemployment
4 and Temporary Disability Insurance of the Department of Labor
5 of the State of New Jersey an investigative staff for the purpose
6 of investigating violations referred to in this section and
7 enforcing the provisions thereof.

8 (cf: P.L.1985, c.476, s.1)

9 2. This act shall take effect immediately.

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LABOR

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Provides for interstate recovery of certain unemployment
15 benefits.

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2 (R.S.43:21-1 et seq.).

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STATEMENT

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14 This bill provides for the interstate recovery of unemployment
15 benefits received as a result of nondisclosure or
16 misrepresentation of information by the claimant or received
17 while the claimant was otherwise ineligible for benefits. The bill
18 affects benefit overpayments made under the State
19 unemployment compensation program, the unemployment
20 compensation program of another state, or a federal
21 unemployment compensation program administered by a state.
22 Presently, New Jersey's "unemployment compensation law,"
23 R.S.43:21-1 et seq., does not allow for such recoveries.

24 The Consolidated Omnibus Budget Reconciliation Act of 1985
25 (COBRA), Pub. L.99-272, provides to the states the option of
26 participating in interstate cross-program offsets of
27 unemployment benefit overpayments if the state enters into a
28 reciprocal agreement with the Secretary of Labor for recoveries
29 made on or after April 7, 1986 (42 U.S.C.503 (g)). Such an
30 agreement has been drafted by the United States Secretary of
31 Labor, and this bill will allow the State to participate in that
32 agreement.

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37 Provides for interstate recovery of certain unemployment
38 benefits.

ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 729

STATE OF NEW JERSEY

DATED: APRIL 30, 1990

The Assembly Labor Committee reports favorably Assembly Bill No. 729.

This bill provides for the interstate recovery of unemployment benefits received as a result of nondisclosure or misrepresentation of information by the claimant or received while the claimant was otherwise ineligible for benefits. The bill affects benefit overpayments made under the State unemployment compensation program, the unemployment compensation program of another state, or a federal unemployment compensation program administered by a state. Presently, New Jersey's "unemployment compensation law," R.S.43:21-1 et seq., does not authorize such recoveries.

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub.L.99-272, provides to the states the option of participating in interstate cross-program offsets of unemployment benefit overpayments if the state enters into a reciprocal agreement with the Secretary of Labor for recoveries made on or after April 7, 1986 (42 U.S.C. §503 (g)). Such an agreement has been drafted by the United States Secretary of Labor, and this bill will allow the State to participate in that agreement.

This bill was pre-filed for introduction in the 1990 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 729

STATE OF NEW JERSEY

DATED: DECEMBER 5, 1991

The Senate Labor, Industry and Professions Committee reports favorably Assembly, No. 729.

This bill authorizes the Commissioner of Labor to enter agreements with other states and the United States Secretary of Labor to provide for the recovery of overpayments of unemployment benefits. The bill includes benefit overpayments made under this State's unemployment compensation program, the unemployment compensation program of another state and a federal unemployment compensation program administered by a state. New Jersey's unemployment compensation law does not currently authorize such recoveries.

Federal law, 42 U.S.C. §503(g), allows states to participate in interstate cross-program offsets of unemployment benefit overpayments if the state enters into a reciprocal agreement with the Secretary of Labor.