

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Unemployment compensation amendments.

Sponsored by: Joint Labor, Health and Social Services
Interim Committee

A BILL

for

1 AN ACT relating to unemployment compensation; amending the
2 benefit disqualification period for false claims;
3 authorizing benefit repayment agreements; making contractor
4 liability provisions applicable to owner-contractors;
5 providing for consolidated accounts following a business
6 acquisition; making all employers subject to cancellation
7 of the substitute payment option; authorizing installment
8 payment agreements for delinquent employer contributions;
9 providing for personal liability and liens on the property
10 of specified officers and directors of delinquent
11 employers, as specified; amending the threshold for
12 incremental bonds for impact industries; amending and
13 providing definitions; authorizing publishing the identity

1 of state agency employing units as specified; repealing
2 provisions inconsistent with the federal unemployment tax
3 act; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 27-3-102(a)(xxi), 27-3-311(e),
8 27-3-409(b)(intro), by creating a new paragraph (iii),
9 (f)(intro), 27-3-502(f), 27-3-507(a), 27-3-509(f)(intro),
10 (i), 27-3-510(e)(intro), 27-3-511 by creating a new
11 subsection (f), by creating a new subsection (g),
12 27-3-516(a) and 27-3-607 by creating a new subsection (d)
13 are amended to read:

14

15 **27-3-102. Definitions generally.**

16

17 (a) As used in this act:

18

19 (xxi) "Casual labor" means service ~~of less than~~
20 ~~two (2) consecutive weeks and not within the normal course~~
21 ~~of business~~ not within the normal course of business unless
22 the cash remuneration paid for the service is fifty dollars
23 (\$50.00) or more;

1

2 **27-3-311. Disqualifications from entitlement;**
3 **grounds; forfeiture.**

4

5 (e) Any person who knowingly files a claim for
6 benefits which contains a false statement or
7 misrepresentation of a material fact, as determined by the
8 department, shall be disqualified from receiving benefits
9 for a fifty-two (52) week period beginning the week in
10 which the false statement or misrepresentation was made or
11 beginning the week following the date that notice of the
12 overpayment ~~determination or decision~~ is mailed to the
13 person who filed the claim.

14

15 **27-3-409. Payment of benefits upon determination;**
16 **repayment of overpaid benefits; penalty.**

17

18 (b) An individual receiving benefits under this act
19 to which he is not entitled shall be liable for and repay
20 the benefit. Repayment of the benefits shall be had ~~either~~
21 by any combination of recoupment, recovery by civil action,
22 or ~~both~~ voluntary reimbursement agreement:

23

1 (iii) The department in its discretion, without
2 civil action, may accept repayment of overpaid benefits by
3 reimbursement from an individual pursuant to a payment
4 schedule approved by the department.

5
6 (f) The department may cancel the amount of
7 overpayments or penalty due on any overpayment after ~~the~~
8 ~~expiration of the time period described in paragraph (b)(i)~~
9 ~~of this section~~ eight (8) years from the effective date of
10 the claim resulting in the overpayment when:

11
12 **27-3-502. Determination of employer and employment;**
13 **election of coverage; records and reports; injunction;**
14 **service suppliers.**

15
16 (f) Any employing unit subject to this act shall not
17 commence business or engage in work within this state
18 without registering under this act and otherwise complying
19 with this act. A project owner contracting for services or
20 a prime or general contractor subcontracting any part of a
21 contract shall require notification and compliance by any
22 subcontractor under this subsection before awarding a
23 contract or permitting a subcontractor to begin work. The

1 state, a county, municipality or any other political
2 subdivision shall require the prime or general contractor
3 to register and comply with this act before authorizing the
4 contractor to begin work under any public contract. The
5 secretary of state shall report to the department the names
6 and addresses of all business entities registering with
7 that agency during the preceding month. The Wyoming
8 department of transportation and the department of
9 administration and information shall report to the
10 department the names and addresses of business entities
11 awarded a contract by that agency during the preceding
12 month. Any employing unit failing to comply with this
13 subsection or W.S. 27-3-510(c) or (d) or delinquent for
14 filing reports or paying contributions required under this
15 act may be enjoined by the department from engaging or
16 continuing in business subject to this act until required
17 reports are filed or payments are made and the unit
18 otherwise complies with this act. All costs of the action
19 including a reasonable attorney fee shall be paid by the
20 employing unit against which the injunction is sought. In
21 addition to the penalties and remedies provided by W.S.
22 27-3-510 through 27-3-512 and 27-3-704, the department may
23 assess and collect an additional fee of up to three (3)

1 times the amount of delinquent contributions payable under
2 this act for any employing unit failing to comply with this
3 subsection. This additional fee is part of the payment due
4 for all purposes if an action is instituted under this
5 subsection. If the employing unit is under contract with a
6 project owner or is a subcontractor, the general contractor
7 or the project owner may be held liable for payment of the
8 contributions and any additional assessment due.

9
10 **27-3-507. Person acquiring trade of employing unit;**
11 **transfer of experience and assignment of rates.**

12
13 (a) A person acquiring the trade, organization,
14 business or substantially all the assets of an employer
15 subject to this act shall assume the employer's account,
16 benefit experience and contribution rate. If the acquiring
17 person is an employer subject to this act, the department
18 shall consolidate the separate accounts and benefit
19 experience and shall determine the contribution rate of the
20 acquiring person effective the first day of the calendar
21 quarter following the date of acquisition. A delinquency
22 rate shall be assumed by the acquiring person as provided
23 in W.S. 27-3-503(b) when the acquiring person owned or

1 controlled an interest in the transferring employer or if
2 the acquiring person is a member of the immediate family of
3 the transferring employer.

4

5 **27-3-509. Election of substitute payments by certain**
6 **organizations authorized; filing and liability period;**
7 **billing; posting of security; exceptions.**

8

9 (f) Any ~~Indian tribe or tribal unit~~ employer failing
10 to make required payments under this section, including
11 assessments of interest and penalties, within ninety (90)
12 days after receipt of a bill, shall not be eligible for
13 making payments under this section for the following tax
14 year unless full payment is received by the department
15 before the contribution rates for the next tax year are
16 computed under this act, subject to the following:

17

18 (i) Any ~~Indian tribe~~ employer losing the option
19 to make payments under this section because of late
20 payments or nonpayment under this subsection shall have the
21 option reinstated if after one (1) year, all contributions
22 have been paid on a timely basis and no contributions,

1 payments instead of contributions for paid benefits,
2 penalties or interest remain outstanding;

3

4 **27-3-510. Delinquencies; interest to be charged;**
5 **deposit; collection by civil action; jeopardy assessments;**
6 **posting of bond; liability of corporate officers and**
7 **directors.**

8

9 (e) Any officer or director having at least twenty
10 percent (20%) ownership interest of a corporate employing
11 unit and any manager of a limited liability company having
12 at least twenty percent (20%) ownership interest of a
13 limited liability company employing unit, who controls or
14 supervises filing contribution reports or making payment
15 contributions under this act and who ~~willfully~~ fails to
16 file the reports or make required payments, and the
17 employing unit fails to pay the amounts due the department,
18 is liable for the contributions or reimbursement including
19 interest, penalties and costs. Liability under this
20 subsection shall:

21

1 **27-3-511. Delinquencies; lien; foreclosure; notice**
2 **and hearing; satisfaction and release; remedies not**
3 **exclusive.**

4
5 (f) Notwithstanding any other provision of this
6 section, the department may enter into installment payment
7 agreements for delinquent tax and interest liabilities
8 where repayment requirements are met and where payment in a
9 lump sum would cause severe inconvenience to the taxpayer.

10
11 (g) For purposes of this section, "employer" includes
12 those individuals described in W.S. 27-3-510(e) under the
13 conditions described in that section.

14
15 **27-3-516. Incremental bond for impact industries.**

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17 (a) Any project in Wyoming with an estimated
18 construction cost ~~of at least one hundred million dollars~~
19 ~~(\$100,000,000.00)~~ equal to or greater than the threshold
20 construction cost defined by the industrial siting council
21 pursuant to W.S. 35-12-102(a)(vii), a majority of which is
22 planned to be completed or discontinued within a period of
23 seven (7) years, and which will require the employment of

1 at least two hundred fifty (250) people is subject to this
2 section. After the project is initiated, each employing
3 unit working on a project which meets the criteria
4 specified under this section shall report annually to the
5 department any change in contract bids within the state as
6 may have been determined under subsection (b) of this
7 section.

8

9 **27-3-607. Cooperation by department with federal and**
10 **state agencies; disclosure and submission of specified**
11 **information; limitations.**

12

13 (d) The department may conduct and publish
14 statistical analysis of payroll and employment of state
15 agencies in the executive branch which may reveal the
16 identify of state agency employing units.

17

18 **Section 2.** W.S. 27-3-102(a)(xviii)(M), (R) and
19 27-3-108(a)(xii) are repealed.

20

21 **Section 3.** This act is effective July 1, 2010.

22

23

(END)