

First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 13-0719.01 Bart Miller x2173

HOUSE BILL 13-1124

HOUSE SPONSORSHIP

Pabon and Stephens, Williams, Melton

SENATE SPONSORSHIP

Jahn, Tochtrop

House Committees

Business, Labor, Economic, & Workforce
Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE REDUCTION OF IMPROPER UNEMPLOYMENT**
102 **INSURANCE BENEFIT PAYMENTS THROUGH COMPLIANCE WITH**
103 **THE FEDERAL "TRADE ADJUSTMENT ASSISTANCE EXTENSION**
104 **ACT OF 2011".**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

As a result of amendments made to the federal "Unemployment Tax Act" and "Social Security Act" by the federal "Trade Adjustment

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

Assistance Extension Act of 2011", in order to keep Colorado's unemployment insurance system in compliance with federal law, the bill makes the following changes to the state unemployment insurance laws:

- ! Requires that employer accounts be charged when an individual is erroneously paid benefits if the overpayment occurred as a result of an employer's failure to provide timely information and the division of unemployment insurance establishes a pattern of this behavior by the employer; and
- ! Increases the penalty on fraudulent overpayments and requires 23% of the penalty to be deposited in the unemployment compensation fund and the remainder into the unemployment revenue fund.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 8-79-102, **add** (5) as
3 follows:

4 **8-79-102. Collection of premiums and surcharges, benefit**
5 **overpayments, penalties, and interest - rules.**

6 (5) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS TITLE, THE
7 DIVISION SHALL CHARGE AN EMPLOYER'S ACCOUNT FOR AN IMPROPER
8 PAYMENT FROM THE UNEMPLOYMENT COMPENSATION FUND IF THE
9 DIVISION DETERMINES THAT:

10 (I) THE PAYMENT WAS MADE BECAUSE THE EMPLOYER, OR AN
11 AGENT OF THE EMPLOYER, WAS AT FAULT FOR FAILING TO RESPOND
12 TIMELY OR ADEQUATELY TO THE REQUEST OF THE DIVISION FOR
13 INFORMATION RELATING TO THE CLAIM FOR COMPENSATION; AND

14 (II) THE EMPLOYER OR AGENT HAS ESTABLISHED A PATTERN OF
15 FAILING TO RESPOND TIMELY OR ADEQUATELY TO SUCH REQUESTS.

16 (b) THE DIVISION SHALL PROMULGATE RULES TO SPECIFY WHAT
17 FACTORS AND FREQUENCY CONSTITUTE A PATTERN OF FAILING TO
18 RESPOND TIMELY OR ADEQUATELY FOR PURPOSES OF ENFORCING THIS

1 SUBSECTION (5).

2 **SECTION 2.** In Colorado Revised Statutes, 8-81-101, **amend** (4)

3 (a) (II) as follows:

4 **8-81-101. Penalties.** (4) (a) (II) If any person receives ~~any such~~
5 AN overpayment because of his or her false representation or willful
6 failure to disclose a material fact, inequitability ~~shall~~ MUST not be a
7 consideration in any civil, administrative, or criminal action, and the
8 person shall ~~be required to pay~~ TO THE DIVISION the total amount of the
9 overpayment ~~which shall be paid~~ PLUS A SIXTY-FIVE PERCENT MONETARY
10 PENALTY. OF THE MONETARY PENALTY, THE DIVISION SHALL PAY
11 TWENTY-THREE PERCENT into the unemployment ~~trust~~ COMPENSATION
12 fund, ~~plus a penalty of fifty percent of such overpayment, which shall be~~
13 ~~paid~~ CREATED IN SECTION 8-77-101, AND THE REMAINDER into the
14 unemployment revenue fund, CREATED IN SECTION 8-77-106. In addition,
15 ~~such~~ THE person may be denied benefits, when otherwise eligible, for a
16 four-week period for each one-week period in which ~~such~~ THE person
17 filed claims for or received benefits to which he or she was not entitled.
18 The provisions of section 13-80-108 (9), C.R.S., shall be used for
19 determining when an offense is committed for the purposes of this
20 subparagraph (II).

21 **SECTION 3. Act subject to petition - effective date -**

22 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
23 the expiration of the ninety-day period after final adjournment of the
24 general assembly (August 7, 2013, if adjournment sine die is on May 8,
25 2013); except that, if a referendum petition is filed pursuant to section 1
26 (3) of article V of the state constitution against this act or an item, section,
27 or part of this act within such period, then the act, item, section, or part

1 will not take effect unless approved by the people at the general election
2 to be held in November 2014 and, in such case, will take effect on the
3 date of the official declaration of the vote thereon by the governor.

4 (2) This act applies to improper payments from the unemployment
5 compensation fund on or after the applicable effective date of this act.