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CHAPTER 41.

EMPLOYMENT SECURITY ‑ OFFENSES, PENALTIES AND LIABILITIES

**SECTION 41‑41‑10.** False statements or representations, or failures to disclose material facts, to obtain or increase benefits.

Whoever makes a false statement or representation knowing it to be false or who knowingly fails to disclose a material fact to obtain or to increase any benefits or other payment under Chapters 27 through 41 of this Title or under an employment security or unemployment compensation law of any other state, the Federal Government, or of a foreign government, either for himself or for any other person, shall be punished by a fine of not less than twenty nor more than one hundred dollars or by imprisonment for not longer than thirty days and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

**SECTION 41‑41‑20.** Suspension of benefits to claimant making false statement or failing to disclose material fact; deduction from benefits.

(A) A claimant found by the commission knowingly to have made a false statement or who knowingly failed to disclose a material fact when filing a compensable claim to establish his right to or increase the amount of his benefits is ineligible to receive benefits for any week for which the claim was filed and is ineligible to receive further benefits for not less than ten and not more than fifty‑two consecutive weeks as determined by the commission according to the circumstances of the case, these weeks to commence with the date of the determination.

(B) If the commission finds that a fraudulent misrepresentation has been made by a claimant with the object of obtaining benefits under this chapter to which he was not entitled, in addition to any other penalty or prosecution provided under this chapter, the commission may make a determination that there must be deducted from benefits to which the claimant might become entitled during this present benefit year or the next subsequent benefit year, or both, an amount not less than two times his weekly benefit amount and not more than his maximum benefit amount payable in a benefit year, as determined under Chapter 35. This deduction takes effect on the date of the determination. An appeal from this determination must be made in the manner prescribed in Chapter 35, Article 5.

**SECTION 41‑41‑30.** False statements or representations, or failures to disclose material facts, to prevent or reduce payment of benefits or contributions.

Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any individual entitled thereto or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from any employing unit under Chapters 27 through 41 of this Title shall be punished by a fine of not less than twenty nor more than one hundred dollars or by imprisonment for not longer than thirty days, and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

**SECTION 41‑41‑40.** Recovery of benefits paid to person not entitled thereto.

(A)(1) A person who has received a sum as benefits under Chapters 27 through 41 while conditions for the receipt of benefits imposed by these chapters were not fulfilled or while he was disqualified from receiving benefits is liable to repay the commission for the unemployment compensation fund a sum equal to the amount received by him.

(2) If full repayment of benefits, to which an individual was determined not entitled, has not been made the sum must be deducted from future benefits payable to him under Chapters 27 through 41, and the sum must be collectible in the manner provided in Sections 41‑31‑380 to 41‑31‑400 for the collection of past due contributions.

(3) The commission may attempt collection of overpayments through the South Carolina Department of Revenue in accordance with Section 12‑56‑10, et seq. If the overpayment is collectible in accordance with Section 12‑56‑60, the commission shall add to the amount of the overpayment a collection fee of not more than twenty‑five dollars for each collection attempt to defray administrative costs.

(4) Notwithstanding any other provision of this section, no action to enforce recovery or recoupment of any overpayment may begin after five years from the date of the final determination.

(B)(1) A person who is overpaid any amounts as benefits under Chapters 27 through 41 is liable to repay those amounts, except as otherwise provided by this subsection.

(2) Upon written request by the person submitted to the commission within the statutory appeal period from the issuance of the determination of overpayment, the commission may waive repayment if the commission finds that the:

(a) overpayment was not due to fraud, misrepresentation, or wilful nondisclosure on the part of the person;

(b) overpayment was received without fault on the part of the person; and

(c) recovery of the overpayment from the person would be contrary to equity and good conscience.

(3) Decisions denying waiver requests are subject to the appeal provisions of Chapter 35.

(C) A person who has received a sum as benefits under the comparable unemployment law of any other state while conditions imposed by that law were not fulfilled or while he was disqualified from receiving benefits by that law is liable to repay the commission for the corresponding unemployment compensation fund of the other state a sum equal to the amount received by him if the other state has entered into an Interstate Reciprocal Overpayment Recovery Agreement with the State and has furnished the commission with verification of the overpayment as required by the agreement. Recovery of overpayments under this subsection are not subject to the provisions of subsections (A)(3) and (B).

**SECTION 41‑41‑50.** General penalty.

Any employing unit or person who shall wilfully violate any provision of Chapters 27 through 41 of this Title or any order, rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of such chapters shall be liable to a penalty of one thousand dollars, to be recovered by the Commission in an appropriate civil action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than twenty nor more than one hundred dollars or imprisonment for not longer than thirty days, and each day such violation continues shall be deemed to be a separate offense.