

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/Senate Bill Nos. 51 & 42, Page 1, Section Title, Line 3,

2 by striking the words "civil actions" and inserting in lieu
3 thereof the following: "COVID-19"; and

4 Further amend said bill and page, Section A, line 4, by
5 inserting after all of said line the following:

6 "288.380. 1. Any agreement by a worker to waive,
7 release, or commute such worker's rights to benefits or any
8 other rights pursuant to this chapter or pursuant to an
9 employment security law of any other state or of the federal
10 government shall be void. Any agreement by a worker to pay
11 all or any portion of any contributions required shall be
12 void. No employer shall directly or indirectly make any
13 deduction from wages to finance the employer's contributions
14 required from him or her, or accept any waiver of any right
15 pursuant to this chapter by any individual in his or her
16 employ.

17 2. No employing unit or any agent of an employing unit
18 or any other person shall make a false statement or
19 representation knowing it to be false, nor shall knowingly
20 fail to disclose a material fact to prevent or reduce the
21 payment of benefits to any individual, nor to avoid becoming
22 or remaining an employer, nor to avoid or reduce any
23 contribution or other payment required from any employing
24 unit, nor shall willfully fail or refuse to make any
25 contributions or payments nor to furnish any required
26 reports nor to produce or permit the inspection or copying

27 of required records. Each such requirement shall apply
28 regardless of whether it is a requirement of this chapter,
29 of an employment security law of any other state or of the
30 federal government.

31 3. No person shall make a false statement or
32 representation knowing it to be false or knowingly fail to
33 disclose a material fact, to obtain or increase any benefit
34 or other payment pursuant to this chapter, or under an
35 employment security law of any other state or of the federal
36 government either for himself or herself or for any other
37 person.

38 4. No person shall without just cause fail or refuse
39 to attend and testify or to answer any lawful inquiry or to
40 produce books, papers, correspondence, memoranda, and other
41 records, if it is in such person's power so to do in
42 obedience to a subpoena of the director, the commission, an
43 appeals tribunal, or any duly authorized representative of
44 any one of them.

45 5. No individual claiming benefits shall be charged
46 fees of any kind in any proceeding pursuant to this chapter
47 by the division, or by any court or any officer thereof.
48 Any individual claiming benefits in any proceeding before
49 the division or a court may be represented by counsel or
50 other duly authorized agent; but no such counsel or agents
51 shall either charge or receive for such services more than
52 an amount approved by the division.

53 6. No employee of the division or any person who has
54 obtained any list of applicants for work or of claimants for
55 or recipients of benefits pursuant to this chapter shall use
56 or permit the use of such lists for any political purpose.

57 7. Any person who shall willfully violate any
58 provision of this chapter, or of an employment security law
59 of any other state or of the federal government or any rule

60 or regulation, the observance of which is required under the
61 terms of any one of such laws, shall upon conviction be
62 deemed guilty of a misdemeanor and shall be punished by a
63 fine of not less than fifty dollars nor more than one
64 thousand dollars, or by imprisonment in the county jail for
65 not more than six months, or by both such fine and
66 imprisonment, and each such violation or each day such
67 violation continues shall be deemed to be a separate offense.

68 8. In case of contumacy by, or refusal to obey a
69 subpoena issued to, any person, any court of this state
70 within the jurisdiction of which the inquiry is carried on,
71 or within the jurisdiction of which the person guilty of
72 contumacy or refusal to obey is found or resides or
73 transacts business, upon application by the director, the
74 commission, an appeals tribunal, or any duly authorized
75 representative of any one of them shall have jurisdiction to
76 issue to such person an order requiring such person to
77 appear before the director, the commission, an appeals
78 tribunal or any duly authorized representative of any one of
79 them, there to produce evidence if so ordered or there to
80 give testimony touching the matter under investigation or in
81 question; and any failure to obey such order of the court
82 may be punished by the court as a contempt thereof.

83 9. (1) Any individual or employer who receives or
84 denies unemployment benefits by intentionally
85 misrepresenting, misstating, or failing to disclose any
86 material fact has committed fraud. After the discovery of
87 facts indicating fraud, a deputy shall make a written
88 determination that the individual obtained or denied
89 unemployment benefits by fraud and that the individual must
90 promptly repay the unemployment benefits to the fund. In
91 addition, the deputy shall assess a penalty equal to twenty-
92 five percent of the amount fraudulently obtained or denied.

93 If division records indicate that the individual or employer
94 had a prior established overpayment or record of denial due
95 to fraud, the deputy shall, on the present overpayment or
96 determination, assess a penalty equal to one hundred percent
97 of the amount fraudulently obtained.

98 (2) Unless the individual or employer within thirty
99 calendar days after notice of such determination of
100 overpayment by fraud is either delivered in person or mailed
101 to the last known address of such individual or employer
102 files an appeal from such determination, it shall be final.
103 Proceedings on the appeal shall be conducted in accordance
104 with section 288.190.

105 (3) If the individual or employer fails to repay the
106 unemployment benefits and penalty, assessed as a result of
107 the deputy's determination that the individual or employer
108 obtained or denied unemployment benefits by fraud, such sum
109 shall be collectible in the manner provided in subsection 14
110 of this section for the recovery of overpaid unemployment
111 compensation benefits. If the individual or employer fails
112 to repay the unemployment benefits that the individual or
113 employer denied or obtained by fraud, the division may
114 offset from any future unemployment benefits otherwise
115 payable the amount of the overpayment, or may take such
116 steps as are necessary to effect payment from the individual
117 or employer. Future benefits may not be used to offset the
118 penalty due. Money received in repayment of fraudulently
119 obtained or denied unemployment benefits and penalties shall
120 first be applied to the unemployment benefits overpaid, then
121 to the penalty amount due. Regarding and for payments made
122 toward the penalty, an amount equal to fifteen percent of
123 the total amount of benefits fraudulently obtained shall be
124 immediately deposited into the state's unemployment
125 compensation fund upon receipt and the remaining penalty

126 amount shall be credited to the special employment security
127 fund.

128 (4) If fraud or evasion on the part of any employer is
129 discovered by the division, the employer will be subject to
130 the fraud provisions of subsection 4 of section 288.160.

131 (5) The provisions of this subsection shall become
132 effective July 1, 2005.

133 10. An individual who willfully fails to disclose
134 amounts earned during any week with respect to which
135 benefits are claimed by him or her, willfully fails to
136 disclose or has falsified as to any fact which would have
137 disqualified him or her or rendered him or her ineligible
138 for benefits during such week, or willfully fails to
139 disclose a material fact or makes a false statement or
140 representation in order to obtain or increase any benefit
141 pursuant to this chapter shall forfeit all of his or her
142 benefit rights, and all of his or her wage credits accrued
143 prior to the date of such failure to disclose or
144 falsification shall be cancelled, and any benefits which
145 might otherwise have become payable to him or her subsequent
146 to such date based upon such wage credits shall be
147 forfeited; except that, the division may, upon good cause
148 shown, modify such reduction of benefits and cancellation of
149 wage credits. It shall be presumed that such failure or
150 falsification was willful in any case in which an individual
151 signs and certifies a claim for benefits and fails to
152 disclose or falsifies as to any fact relative to such claim.

153 11. (1) Any assignment, pledge, or encumbrance of any
154 rights to benefits which are or may become due or payable
155 pursuant to this chapter shall be void; and such rights to
156 benefits shall be exempt from levy, execution, attachment,
157 or any other remedy whatsoever provided for the collection
158 of debt; and benefits received by any individual, so long as

they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or the individual's spouse or dependents during the time such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void; except that this section shall not apply to:

(a) Support obligations, as defined pursuant to paragraph (g) of subdivision (2) of this subsection, which are being enforced by a state or local support enforcement agency against any individual claiming unemployment compensation pursuant to this chapter; or

(b) Uncollected overissuances (as defined in Section 13(c)(1) of the Food Stamp Act of 1977) of food stamp coupons.

(2) (a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not the individual owes support obligations, as defined pursuant to paragraph (g) of this subdivision or owes uncollected overissuances of food stamp coupons (as defined in Section 13(c)(1) of the Food Stamp Act of 1977). If any such individual discloses that he or she owes support obligations or uncollected overissuances of food stamp coupons, and is determined to be eligible for unemployment compensation, the division shall notify the state or local support enforcement agency enforcing the support obligation or the state food stamp agency to which the uncollected food stamp overissuance is owed that such individual has been determined to be eligible for unemployment compensation;

(b) The division shall deduct and withhold from any unemployment compensation payable to an individual who owes

support obligations as defined pursuant to paragraph (g) of this subdivision or who owes uncollected food stamp overissuances:

a. The amount specified by the individual to the division to be deducted and withheld pursuant to this paragraph if neither subparagraph b. nor subparagraph c. of this paragraph is applicable; or

b. The amount, if any, determined pursuant to an agreement submitted to the division pursuant to Section 454(20)(B)(i) of the Social Security Act by the state or local support enforcement agency, unless subparagraph c. of this paragraph is applicable; or the amount (if any) determined pursuant to an agreement submitted to the state food stamp agency pursuant to Section 13(c)(3)(a) of the Food Stamp Act of 1977; or

c. Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to properly served legal process, as that term is defined in Section 459(i) of the Social Security Act; or any amount otherwise required to be deducted and withheld from the unemployment compensation pursuant to Section 13(c)(3)(b) of the Food Stamp Act of 1977;

(c) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall be paid by the division to the appropriate state or local support enforcement agency or state food stamp agency;

(d) Any amount deducted and withheld pursuant to paragraph (b) of this subdivision shall, for all purposes, be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the state or local support enforcement agency in satisfaction of the individual's support obligations or to the state food

stamp agency to which the uncollected overissuance is owed
as repayment of the individual's uncollected overissuance;

(e) For purposes of paragraphs (a), (b), (c), and (d)
of this subdivision, the term "unemployment compensation"
means any compensation payable pursuant to this chapter,
including amounts payable by the division pursuant to an
agreement pursuant to any federal law providing for
compensation, assistance, or allowances with respect to
unemployment;

(f) Deductions will be made pursuant to this section
only if appropriate arrangements have been made for
reimbursement by the state or local support enforcement
agency, or the state food stamp agency, for the
administrative costs incurred by the division pursuant to
this section which are attributable to support obligations
being enforced by the state or local support enforcement
agency or which are attributable to uncollected
overissuances of food stamp coupons;

(g) The term "support obligations" is defined for
purposes of this subsection as including only obligations
which are being enforced pursuant to a plan described in
Section 454 of the Social Security Act which has been
approved by the Secretary of Health and Human Services
pursuant to Part D of Title IV of the Social Security Act;

(h) The term "state or local support enforcement
agency", as used in this subsection, means any agency of a
state, or political subdivision thereof, operating pursuant
to a plan described in paragraph (g) of this subdivision;

(i) The term "state food stamp agency" as used in this
subsection means any agency of a state, or political
subdivision thereof, operating pursuant to a plan described
in the Food Stamp Act of 1977;

(j) The director may prescribe the procedures to be followed and the form and contents of any documents required in carrying out the provisions of this subsection;

(k) The division shall comply with the following priority when deducting and withholding amounts from any unemployment compensation payable to an individual:

a. Before withholding any amount for child support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold from any unemployment compensation payable to an individual the amount, as determined by the division, owed pursuant to subsection 12 or 13 of this section;

b. If, after deductions are made pursuant to subparagraph a. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes support obligations or uncollected overissuances of food stamp coupons, the division shall first deduct and withhold any remaining unemployment compensation amounts for application to child support obligations owed by the individual;

c. If, after deductions are made pursuant to subparagraphs a. and b. of this paragraph, an individual has remaining unemployment compensation amounts due and owing, and the individual owes uncollected overissuances of food stamp coupons, the division shall deduct and withhold any remaining unemployment compensation amounts for application to uncollected overissuances of food stamp coupons owed by the individual.

12. Any person who, by reason of the nondisclosure or misrepresentation by such person or by another of a material fact, has received any sum as benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's

case, or while he or she was disqualified from receiving benefits, shall, in the discretion of the division, either be liable to have such sums deducted from any future benefits payable to such person pursuant to this chapter or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her. The division may recover such sums in accordance with the provisions of subsection 14 of this section.

13. Any person who, by reason of any error or omission or because of a lack of knowledge of material fact on the part of the division, has received any sum of benefits pursuant to this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in such person's case, or while such person was disqualified from receiving benefits, shall after an opportunity for a fair hearing pursuant to subsection 2 of section 288.190, in the discretion of the division, either be liable to have such sums deducted from any further benefits payable to such person pursuant to this chapter, or shall be liable to repay to the division for the unemployment compensation fund a sum equal to the amounts so received by him or her. The division may recover such sums in accordance with the provisions of subsection 14 of this section. However, the division may elect not to process such possible overpayments:

(1) Where the amount of same is not over twenty percent of the maximum state weekly benefit amount in effect at the time the error or omission was discovered; or

(2) For any such sum paid to a person during the existence of a state of emergency declared by the governor due to COVID-19.

321 14. Recovering overpaid unemployment compensation
322 benefits shall be pursued by the division against any person
323 receiving such overpaid unemployment compensation benefits
324 through billing, setoffs against state and federal tax
325 refunds to the extent permitted by federal law, intercepts
326 of lottery winnings under section 313.321, and collection
327 efforts as provided for in sections 288.160, 288.170, and
328 288.175.

329 15. Any person who has received any sum as benefits
330 under the laws of another state, or under any unemployment
331 benefit program of the United States administered by another
332 state while any conditions for the receipt of benefits
333 imposed by the law of such other state were not fulfilled in
334 his or her case, shall after an opportunity for a fair
335 hearing pursuant to subsection 2 of section 288.190 have
336 such sums deducted from any further benefits payable to such
337 person pursuant to this chapter, but only if there exists
338 between this state and such other state a reciprocal
339 agreement under which such entity agrees to recover benefit
340 overpayments, in like fashion, on behalf of this state."; and
341 Further amend the title and enacting clause accordingly.