SENATE AMENDMENT NO. ___

Offered by _____ **Of** _____

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amount shall be credited to the special employment security fund.

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

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

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

11. (1) Any assignment, pledge, or encumbrance of any rights to benefits which are or may become due or payable pursuant to this chapter shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection 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 necessaries 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.

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

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

Further amend the title and enacting clause accordingly.