Fifty-ninth Legislative Assembly of North Dakota

SENATE BILL NO. 2381

Introduced by

Senator Fairfield

1 A BILL for an Act to amend and reenact subsection 3 of section 65-05-08 and section 65-05-33

2 of the North Dakota Century Code, relating to false claims or statements made to workers'

3 compensation; and to provide a penalty.

4 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

5 SECTION 1. AMENDMENT. Subsection 3 of section 65-05-08 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. Any employee who is eligible for, or receiving disability or rehabilitation benefits 8 under this title shall report any wages earned, from part-time or full-time work from any source. If an employee fails to report wages earned, the employee shall 9 10 refund to the organization any disability or vocational rehabilitation benefits 11 overpaid by the organization for that time period. To facilitate recovery of those 12 benefits, the organization may offset future benefits payable, under section 13 65-05-29. If the employee willfully fails to report wages earned for the purpose of 14 receiving benefits for which the employee would not otherwise be eligible, the 15 employee is subject to the penalties in section 65-05-33. An employee shall report 16 whether the employee has performed work or received wages. The organization 17 periodically shall provide a form to all injured employees receiving disability or 18 rehabilitation benefits which the injured employee must complete to retain eligibility 19 for further disability or rehabilitation benefits, regardless of the date of injury or 20 claim filing. The form will advise the injured employee of the possible penalties for 21 failure to report any work or activities as required by this section. An injured 22 employee who is receiving disability or vocational rehabilitation benefits must 23 report any work activities to the organization whether or not the injured employee 24 receives any wages. An injured employee who is receiving disability or vocational

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1		reha	abilitat	ion benefits also must report any other activity if the injured employee			
2		rece	eives a	any money, including prize winnings, from undertaking that activity,			
3		rega	ardles	s of expenses or whether there is a net profit. For purposes of this			
4		sub	sectio	n, "work" does not include routine daily activities of self-care or family			
5		care	e, or ro	outine maintenance of the home and yard, and "activities" does not			
6		inclu	ude re	creational gaming or passive investment endeavors.			
7	SE	СТЮ	CTION 2. AMENDMENT. Section 65-05-33 of the North Dakota Century Code is				
8	amended a	and re	enact	ed as follows:			
9	65-05-33. Filing false claim or false statement - Penalty.						
10	1.	A pe	erson	who claims benefits or payment for services under this title or the			
11		emp	oloyer	of a person an individual who claims benefits or payments for services is			
12		guilt	y of a	class A misdemeanor if the person or employer does any one or more of			
13		the	the following:				
14		a.	Willf	ully files a false claim or makes a false statement in an attempt to secure			
15			payn	nent of benefits or payment for services.			
16		b.	Willf	ully misrepresents that person's individual's physical condition, including			
17			dece	ptive conduct which misrepresents that person's individual's physical			
18			abilit	у.			
19		C.	Has	a claim for disability benefits that has been accepted by the organization			
20			and	willfully fails to notify the organization of:			
21			(1)	Work or other activities as required under subsection 3 of section			
22				65-05-08;			
23			(2)	The receipt of income from work; or			
24			(3)	An increase in income from work.			
25	2.	lf ar	ny of tl	he acts in subsection 1 are willfully committed with the purpose to obtain,			
26		or pursuant to a scheme with the purpose to obtain, more than five hundred dollars					
27		in be	enefits	s or payment for services, the offense is a class C felony.			
28	3.	In addition to any other penalties provided by law, the person claiming benefits or					
29		payment for services in violation of this section shall reimburse the organization for					
30		any	benet	fits paid based upon the false claim or false statement and, if applicable,			
31		und	er sec	tion 65-05-29 and shall forfeit any additional benefits relative to that			

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1		injury. The amount forfeited or the amount reimbursed to the organization under
2		this section is limited to the difference between the amount of benefits erroneously
3		awarded and the amount of any benefits to which the individual would have been
4		eligible had the claim or statement been accurate. The organization may not
5		terminate an individual's medical benefits under this section unless the individual
6		willfully misrepresented the individual's physical condition or ability with the
7		purpose of obtaining medical benefits to which the individual knew the individual
8		was not entitled. The organization shall prove a violation of this subsection by
9		clear and convincing evidence.
10	4.	For purposes of this section, "statement" includes any testimony, claim form,
11		notice, proof of injury, proof of return to work status, bill for services, diagnosis,
12		prescription, hospital or doctor records, x-ray, test results, or other evidence of

13 loss, injury, or expense.