

**SENATE BILL NO. 2397**

Introduced by

Senator O'Connell

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.

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

1 also must report any other activity if the injured employee receives any money,  
2 including prize winnings, from undertaking that activity, regardless of expenses or  
3 whether there is a net profit. For purposes of this subsection, "work" does not  
4 include routine daily activities of self-care or family care, or routine maintenance of  
5 the home and yard, and "activities" does not include recreational gaming or  
6 passive investment endeavors.

7 **SECTION 2. AMENDMENT.** Section 65-05-33 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **65-05-33. Filing false claim or false statement - Penalty.**

- 10 1. A person who claims benefits or payment for services under this title or the  
11 employer of ~~a person~~ an individual who claims benefits or payments for services is  
12 guilty of a class A misdemeanor if the person or employer does any one or more of  
13 the following:
- 14 a. ~~Willfully~~ Intentionally files a false claim or makes a false statement in an  
15 attempt to secure payment of benefits or payment for services.
  - 16 b. ~~Willfully~~ Intentionally misrepresents that ~~person's~~ individual's physical  
17 condition, including deceptive conduct which misrepresents that ~~person's~~  
18 individual's physical ability.
  - 19 c. Has a claim for disability benefits that has been accepted by the bureau and  
20 ~~willfully~~ intentionally fails to notify the bureau 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. If any of the acts in subsection 1 are intentionally committed with the purpose to  
26 obtain, or pursuant to a scheme with the purpose to obtain, more than five hundred  
27 dollars in benefits 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 bureau for any  
30 benefits paid based upon the false claim or false statement and, if applicable,  
31 under section 65-05-29 ~~and~~ shall forfeit any additional benefits relative to that

- 1           injury. The amount forfeited or the amount reimbursed to the bureau under this  
2           section is limited to the difference between the amount of benefits erroneously  
3           awarded and the amount of any benefits the individual would have been eligible for  
4           had the claim or statement been accurate. The bureau may not terminate an  
5           individual's medical benefits under this section unless the individual intentionally  
6           misrepresented the individual's physical condition or ability with the purpose of  
7           obtaining medical benefits to which the individual knew the individual was not  
8           entitled. The bureau shall prove a violation of this subsection by clear and  
9           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.