

# 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

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

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

172 (b) Uncollected overissuances (as defined in Section  
173 13(c)(1) of the Food Stamp Act of 1977) of food stamp  
174 coupons.

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

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

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

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

199 b. The amount, if any, determined pursuant to an  
200 agreement submitted to the division pursuant to Section  
201 454(20) (B) (i) of the Social Security Act by the state or  
202 local support enforcement agency, unless subparagraph c. of  
203 this paragraph is applicable; or the amount (if any)  
204 determined pursuant to an agreement submitted to the state  
205 food stamp agency pursuant to Section 13(c) (3) (a) of the  
206 Food Stamp Act of 1977; or

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

318 (2) For any such sum paid to a person during the  
319 existence of a state of emergency declared by the governor  
320 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.