

**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  
9 any source. If an employee fails to report wages earned, the employee shall  
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

1 rehabilitation benefits also must report any other activity if the injured employee  
2 receives any money, including prize winnings, from undertaking that activity,  
3 regardless of expenses or whether there is a net profit. For purposes of this  
4 subsection, "work" does not include routine daily activities of self-care or family  
5 care, or routine maintenance of the home and yard, and "activities" does not  
6 include recreational gaming or 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 files a false claim or makes a false statement in an attempt to secure  
15 payment of benefits or payment for services.
  - 16 b. Willfully misrepresents that ~~person's~~ individual's physical condition, including  
17 deceptive conduct which misrepresents that ~~person's~~ individual's physical  
18 ability.
  - 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. If any of the 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 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 organization for  
30 any 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 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.