

1 *Senate* BILL NO. 187  
 2 INTRODUCED BY *See* \_\_\_\_\_  
 3 BY REQUEST OF THE DEPARTMENT OF LABOR

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION  
 6 87-145, R.C.M. 1947, TO AVOID THE POSSIBILITY OF DOUBLE  
 7 JEOPARDY AND TO CAUSE THE ADMINISTRATIVE PENALTY TO BE  
 8 EFFECTIVE WITH THE FIRST COMPENSABLE WEEK FOLLOWING THE DATE  
 9 OF DETERMINATION."

10  
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 12 Section 1. Section 87-145, R.C.M. 1947, is amended to  
 13 read as follows:

14 "87-145. Penalties -- falsity or willful nondisclosure  
 15 -- violations by employer or agent -- violation of act or  
 16 regulations -- wrongfully collecting benefits. (a) Whoever  
 17 makes a false statement or representation knowing it to be  
 18 false or knowingly fails to disclose a material fact, to  
 19 obtain or increase any benefit or other payment under this  
 20 act, or under an employment security law of any other state,  
 21 or territory or the federal government either for himself or  
 22 for any other person, shall:

23 (1) Be punished by a fine of not less than fifty  
 24 dollars (\$50.00) nor more than five hundred dollars  
 25 (\$500.00) or by imprisonment for not less than three (3)

1 days nor more than thirty (30) days in the county jail or by  
 2 both such fine and imprisonment; and each such false  
 3 statement or representation or failure to disclose a  
 4 material fact shall constitute a separate offense, and or

5 (2) Be disqualified for benefits thereafter until:  
 6 ~~(A) He has repaid to the division either directly or~~  
 7 ~~by offset of future benefits to which he may be entitled, a~~  
 8 ~~sum equal to the amount so received by him, provided~~  
 9 ~~however he will not be required to repay any amount so~~  
 10 ~~obtained more than five (5) years prior to the date of the~~  
 11 ~~division's determination that the claimant made such false~~  
 12 ~~statements, willful nondisclosure or misrepresentation, as~~  
 13 ~~provided in this paragraph, and~~

14 (B) \* a period of not less than ten (10) nor more than  
 15 fifty-two (52) weeks have elapsed since beginning with the  
 16 first compensable week following the date of such  
 17 determination by the division, the length of time of the  
 18 disqualification as herein described to be determined by the  
 19 division in accordance with the severity of each case.

20 (3) In either of the circumstances under subsection  
 21 (1) or (2) above, be required to repay to the division  
 22 either directly or as authorized by the division by offset  
 23 of future benefits to which he may be entitled, a sum equal  
 24 to the amount so received by him, however, he will not be  
 25 required to repay any amount so obtained more than 5 years

1 prior to the date of the division's determination that the  
 2 claimant made such false statements, willful nondisclosure,  
 3 or misrepresentation.

4 (b) Any employing unit or any officer or agent of an  
 5 employing unit or any other person who makes a false  
 6 statement or representation knowing it to be false, or who  
 7 knowingly fails to disclose a material fact, to prevent or  
 8 reduce the payment of benefits to any individual entitled  
 9 thereto, or to avoid becoming or remaining subject hereto or  
 10 to avoid or reduce any contribution or other payment  
 11 required from an employing unit under this act, or under the  
 12 employment security law of any other state, or territory or  
 13 the federal government or who willfully fails or refuses to  
 14 make any such contributions or other payment or to furnish  
 15 any reports required hereunder or to produce or permit the  
 16 inspection or copying of records as required hereunder,  
 17 shall be punished by a fine of not less than fifty dollars  
 18 (\$50.00) nor more than five hundred dollars (\$500.00) or by  
 19 imprisonment for not less than three (3) days nor more than  
 20 thirty (30) days in the county jail or by both such fine and  
 21 imprisonment; and each such false statement or  
 22 representation or failure to disclose a material fact, and  
 23 each day of such failure or refusal shall constitute a  
 24 separate offense.

25 (c) Any person who shall willfully violate any

1 provision of this act or any order, rule or regulation  
 2 thereunder, the violation of which is made unlawful or the  
 3 observance of which is required under the terms of this act,  
 4 and for which a penalty is neither prescribed herein nor  
 5 provided by any other applicable statute, shall be punished  
 6 by a fine of not less than fifty dollars (\$50.00) nor more  
 7 than five hundred dollars (\$500.00) or by imprisonment for  
 8 not less than three (3) days nor more than thirty (30) days  
 9 in the county jail or by both such fine and imprisonment,  
 10 and each day such violation continues shall be deemed to be  
 11 a separate offense.

12 (d) Any person who, by reason of the nondisclosure or  
 13 misrepresentation by him or by another, of a material fact  
 14 (irrespective of whether such nondisclosure or  
 15 misrepresentation was known or fraudulent) has received any  
 16 sum as benefits under this act while any conditions for the  
 17 receipt of benefits imposed by this act were not fulfilled  
 18 in his case, or while he was disqualified from receiving  
 19 benefits, shall, in the discretion of the division, either  
 20 be liable to have such sum deducted from any future benefits  
 21 payable to him under this act or shall be liable to repay to  
 22 the division for the unemployment compensation fund, a sum  
 23 equal to the amount so received by him, and such sum shall  
 24 be collectible in the manner provided in this act for the  
 25 collection of past due contributions. Action for collection

LC 0737/01

1 of overpaid benefits shall be brought within five (5) years  
2 after the date of such overpayment, otherwise to be barred  
3 as provided in section 93-2604."

-End-

Labor & Employment Relations

Without recommendation

Senate BILL NO. 117

1 INTRODUCED BY [Signature]
2
3 BY REQUEST OF THE DEPARTMENT OF LABOR

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
6 87-145, R.C.M. 1947, TO AVOID THE POSSIBILITY OF DOUBLE
7 JEOPARDY AND TO CAUSE THE ADMINISTRATIVE PENALTY TO BE
8 EFFECTIVE WITH THE FIRST COMPENSABLE WEEK FOLLOWING THE DATE
9 OF DETERMINATION."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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17 makes a false statement or representation knowing it to be
18 false or knowingly fails to disclose a material fact, to
19 obtain or increase any benefit or other payment under this
20 act, or under an employment security law of any other state,
21 or territory or the federal government either for himself or
22 for any other person, shall:

23 (1) Be punished by a fine of not less than fifty
24 dollars (\$50.00) nor more than five hundred dollars
25 (\$500.00) or by imprisonment for not less than three (3)

1 days nor more than thirty (30) days in the county jail or by
2 both such fine and imprisonment; and each such false
3 statement or representation or failure to disclose a
4 material fact shall constitute a separate offense, and 2C

5 (2) Be disqualified for benefits thereafter until:
6 (A) He has repaid to the division either directly or
7 by offset of future benefits to which he may be entitled, a
8 sum equal to the amount so received by him provided,
9 however, he will not be required to repay any amount so
10 obtained more than five (5) years prior to the date of the
11 division's determination that the claimant made such false
12 statements, willful nondisclosure or misrepresentation, as
13 provided in this paragraph, and

14 (B) A 2 period of not less than ten (10) nor more than
15 fifty-two (52) weeks have elapsed since beginning with the
16 first compensable week following the date of such
17 determination by the division, the length of time of the
18 disqualification as herein described to be determined by the
19 division in accordance with the severity of each case.

20 (3) In either of the circumstances under subsection
21 (1) or (2) above, be required to repay to the division
22 either directly or as authorized by the division by offset
23 of future benefits to which he may be entitled, a sum equal
24 to the amount so received by him; however, he will not be
25 required to repay any amount so obtained more than 5 years

SB187

1 prior to the date of the division's determination that the  
 2 claimant made such false statements, willful nondisclosure,  
 3 or misrepresentation.

4 (b) Any employing unit or any officer or agent of an  
 5 employing unit or any other person who makes a false  
 6 statement or representation knowing it to be false, or who  
 7 knowingly fails to disclose a material fact, to prevent or  
 8 reduce the payment of benefits to any individual entitled  
 9 thereto, or to avoid becoming or remaining subject hereto or  
 10 to avoid or reduce any contribution or other payment  
 11 required from an employing unit under this act, or under the  
 12 employment security law of any other state, or territory or  
 13 the federal government or who willfully fails or refuses to  
 14 make any such contributions or other payment or to furnish  
 15 any reports required hereunder or to produce or permit the  
 16 inspection or copying of records as required hereunder,  
 17 shall be punished by a fine of not less than fifty dollars  
 18 (\$50.00) nor more than five hundred dollars (\$500.00) or by  
 19 imprisonment for not less than three (3) days nor more than  
 20 thirty (30) days in the county jail or by both such fine and  
 21 imprisonment; and each such false statement or  
 22 representation or failure to disclose a material fact, and  
 23 each day of such failure or refusal shall constitute a  
 24 separate offense.

25 (c) Any person who shall willfully violate any

1 provision of this act or any order, rule or regulation  
 2 thereunder, the violation of which is made unlawful or the  
 3 observance of which is required under the terms of this act,  
 4 and for which a penalty is neither prescribed herein nor  
 5 provided by any other applicable statute, shall be punished  
 6 by a fine of not less than fifty dollars (\$50.00) nor more  
 7 than five hundred dollars (\$500.00) or by imprisonment for  
 8 not less than three (3) days nor more than thirty (30) days  
 9 in the county jail or by both such fine and imprisonment,  
 10 and each day such violation continues shall be deemed to be  
 11 a separate offense.

12 (d) Any person who, by reason of the nondisclosure or  
 13 misrepresentation by him or by another, of a material fact  
 14 (irrespective of whether such nondisclosure or  
 15 misrepresentation was known or fraudulent) has received any  
 16 sum as benefits under this act while any conditions for the  
 17 receipt of benefits imposed by this act were not fulfilled  
 18 in his case, or while he was disqualified from receiving  
 19 benefits, shall, in the discretion of the division, either  
 20 be liable to have such sum deducted from any future benefits  
 21 payable to him under this act or shall be liable to repay to  
 22 the division for the unemployment compensation fund, a sum  
 23 equal to the amount so received by him, and such sum shall  
 24 be collectible in the manner provided in this act for the  
 25 collection of past due contributions. Action for collection

LC 0737/01

1 of overpaid benefits shall be brought within five (5) years  
2 after the date of such overpayment, otherwise to be barred  
3 as provided in section 93-2604."

-End-

SENATE BILL NO. 187

INTRODUCED BY LEE

BY REQUEST OF THE DEPARTMENT OF LABOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND ~~SECTION 87-145, R.C.M., 1947, TO AVOID THE POSSIBILITY OF DOUBLE JEOPARDY AND TO CAUSE THE ADMINISTRATIVE PENALTY TO BE EFFECTIVE WITH THE FIRST COMPENSABLE WEEK FOLLOWING THE DATE OF DETERMINATION. GENERALLY REVISE THE ADMINISTRATIVE AND CRIMINAL PENALTIES FOR MAKING FALSE STATEMENTS OR REPRESENTATIONS OR FAILURE TO DISCLOSE A MATERIAL FACT IN ORDER TO OBTAIN OR INCREASE UNEMPLOYMENT COMPENSATION BENEFITS AND TO PROVIDE FOR CRIMINAL PROSECUTION FOR THE FRAUDULENT RECEIPT OF UNEMPLOYMENT COMPENSATION BENEFITS."~~

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 Section 1. Section 87-145, R.C.M. 1947, is amended to read as follows:

"87-145. Penalties -- falsity or willful nondisclosure -- violations by employer or agent -- violation of act or regulations -- wrongfully collecting benefits. (1) Whoever A PERSON WHO makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact IN ORDER to obtain or increase any benefit or other payment under this act CHAPTER, or under an

employment security law of any other state or territory or the federal government, either for himself or for any other person, shall IS:

~~(1) be punished by a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment for not less than three (3) days nor more than thirty (30) days in the county jail or by both such fine and imprisonment and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense and or~~

~~(2)(A) Be disqualified for benefits thereafter until FOR:~~

~~(A) He has repaid to the division either directly or by offset of future benefits to which he may be entitled a sum equal to the amount so received by him; provided, however, he will not be required to repay any amount so obtained more than five (5) years prior to the date of the division's determination that the claimant made such false statements, willful nondisclosure or misrepresentation as provided in this paragraph and~~

~~(B) A period of not less than ten (10) nor more than fifty-two (52) weeks, have elapsed since beginning with the first compensable week following the date of such determination by the division; the length of time of the disqualification as herein described to be determined by the~~

1 division in accordance with the severity of each case; AND  
 2 ~~(f)(1) In either of the circumstances under subsection~~  
 3 ~~(f) or (f) above, he required to repay to the division~~  
 4 ~~either directly or as authorized by the division, by offset~~  
 5 ~~of future benefits to which he may be entitled OR BY A~~  
 6 ~~COMBINATION OF BOTH SUCH METHODS, a sum equal to the amount~~  
 7 ~~so WRONGFULLY received by him, however HOWEVER, he will IS~~  
 8 ~~not be required to repay any amount so WRONGFULLY obtained~~  
 9 ~~more than 5 years prior to the date of the division's~~  
 10 ~~determination that the claimant HE made such false~~  
 11 ~~statements, willful nondisclosure, or misrepresentation.~~

12 (2) A PERSON WHO, IN ORDER TO OBTAIN OR INCREASE FOR  
 13 HIMSELF OR FOR ANY OTHER PERSON BENEFITS UNDER THIS CHAPTER  
 14 OR UNDER AN EMPLOYMENT SECURITY LAW OF ANY OTHER STATE OR  
 15 TERRITORY OR THE FEDERAL GOVERNMENT, KNOWINGLY MAKES A FALSE  
 16 STATEMENT OR REPRESENTATION OR KNOWINGLY FAILS TO DISCLOSE A  
 17 MATERIAL FACT IS GUILTY OF A CRIME UNDER 94-7-204 AND THE  
 18 DIVISION MAY CAUSE CRIMINAL PROCEEDINGS TO BE INITIATED  
 19 AGAINST HIM.

20 (3) A PERSON WHO, THROUGH DECEPTION OR OTHER  
 21 FRAUDULENT MEANS, OBTAINS BENEFITS WHICH HE IS NOT ENTITLED  
 22 TO UNDER THIS CHAPTER OR UNDER AN EMPLOYMENT SECURITY LAW OF  
 23 ANY OTHER STATE OR TERRITORY OR THE FEDERAL GOVERNMENT OR A  
 24 PERSON LEGALLY ACCOUNTABLE FOR SUCH CONDUCT UNDER 94-2-107  
 25 IS GUILTY OF A CRIME UNDER 94-6-302 AND A COUNTY ATTORNEY

1 MAY INITIATE CRIMINAL PROCEEDINGS AGAINST HIM.

2 (b)(4) Any employing unit or any officer or agent of  
 3 an employing unit or any other person who makes a false  
 4 statement or representation knowing it to be false, or who  
 5 knowingly fails to disclose a material fact, to prevent or  
 6 reduce the payment of benefits to any individual entitled  
 7 thereto, or to avoid becoming or remaining subject hereto or  
 8 to avoid or reduce any contribution or other payment  
 9 required from an employing unit under this act CHAPTER, or  
 10 under the employment security law of any other state, or  
 11 territory or the federal government or who willfully fails  
 12 or refuses to make any such contributions or other payment  
 13 or to furnish any reports required hereunder or to produce  
 14 or permit the inspection or copying of records as required  
 15 hereunder, shall be punished by a fine of not less than  
 16 fifty dollars (\$50.00) nor more than five hundred dollars  
 17 (\$500.00) or by imprisonment for not less than three (3)  
 18 days nor more than thirty (30) days in the county jail or by  
 19 both such fine and imprisonment; and each such false  
 20 statement or representation or failure to disclose a  
 21 material fact, and each day of such failure or refusal shall  
 22 constitute a separate offense.

23 (c)(5) Any person who shall willfully violate any  
 24 provision of this act CHAPTER or any order, rule or  
 25 regulation thereunder, the violation of which is made

1 unlawful or the observance of which is required under the  
 2 terms of this act ~~CHAPTER~~, and for which a penalty is  
 3 neither prescribed herein nor provided by any other  
 4 applicable statute, shall be punished by a fine of not less  
 5 than fifty dollars (\$50.00) nor more than five hundred  
 6 dollars (\$500.00) or by imprisonment for not less than three  
 7 (3) days nor more than thirty (30) days in the county jail  
 8 or by both such fine and imprisonment, and each day such  
 9 violation continues shall be deemed to be a separate  
 10 offense.

11 ~~(d)(6)~~ Any person who, by reason of the nondisclosure  
 12 or misrepresentation by him or by another, of a material  
 13 fact (irrespective of whether such nondisclosure or  
 14 misrepresentation was known or fraudulent) has received any  
 15 sum as benefits under this act ~~CHAPTER~~ while any conditions  
 16 for the receipt of benefits imposed by this act ~~CHAPTER~~ were  
 17 not fulfilled in his case, or while he was disqualified from  
 18 receiving benefits, shall, in the discretion of the  
 19 division, either be liable to have such sum deducted from  
 20 any future benefits payable to him under this act ~~CHAPTER~~ or  
 21 shall be liable to repay to the division for the  
 22 unemployment compensation fund, a sum equal to the amount so  
 23 received by him, and such sum shall be collectible in the  
 24 manner provided in this act ~~CHAPTER~~ for the collection of  
 25 past due contributions. Action for collection of overpaid

1 benefits shall be brought within five (5) years after the  
 2 date of such overpayment, otherwise to be barred as provided  
 3 in section 93-2604.\*

-End-

1 SENATE BILL NO. 187  
 2 INTRODUCED BY LEE  
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 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND ~~SECTION~~  
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 10 ~~CRIMINAL PENALTIES FOR MAKING FALSE STATEMENTS OR~~  
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 12 ~~ORDER TO OBTAIN OR INCREASE UNEMPLOYMENT COMPENSATION~~  
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 14 ~~FRAUDULENT RECEIPT OF UNEMPLOYMENT COMPENSATION BENEFITS."~~  
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 12 or refuses to make any such contributions or other payment  
 13 or to furnish any reports required hereunder or to produce  
 14 or permit the inspection or copying of records as required  
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-End-