



General Assembly

January Session, 2005

Raised Bill No. 6918

LCO No. 4466

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Referred to Committee on Labor and Public Employees

Introduced by:
(LAB)

**AN ACT CONCERNING THE INTEGRITY OF THE UNEMPLOYMENT
COMPENSATION EXPERIENCE RATED TAX SYSTEM.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2005*) (a) For purposes of this
2 section:

3 (1) "Knowingly" means having actual knowledge of or acting with
4 deliberate ignorance of or reckless disregard for a prohibition or
5 requirement under this section;

6 (2) "Person" means an individual, corporation, limited liability
7 company, company, trust, estate, partnership or association;

8 (3) "Trade or business" includes an employer's employees; and

9 (4) "Violates or attempts to violate" includes, but is not limited to,
10 the evasion of or attempt to evade any provision of this section, or any
11 misrepresentation or wilful nondisclosure of information required to
12 be given under this section.

13 (b) No person who acquires the assets, organization, trade or

14 business of an employer solely or primarily for the purpose of
15 obtaining a lower contribution rate to the Unemployment
16 Compensation Fund shall acquire the unemployment experience of the
17 employer, and such acquisition shall be deemed a violation under this
18 subsection. If the administrator determines that a person has acquired
19 such assets solely and primarily for the purpose of obtaining a lower
20 contribution rate, the administrator shall require such person to pay
21 contributions at the rate provided in subsection (d) of section 31-225a
22 of the general statutes for an employer who has not been chargeable
23 with benefits for a sufficient period of time to have such employer's
24 rate computed under such provision. In determining whether the
25 assets, organization, trade or business of an employer was acquired
26 solely or primarily for the purpose of obtaining a lower contribution
27 rate, the factors the administrator shall consider shall include, but not
28 be limited to, the cost of acquiring the business, whether the person
29 continued the business activity of the acquired business, how long the
30 business was continued and whether a substantial number of new
31 employees were hired for performance of duties unrelated to the
32 business activity conducted by the business prior to its acquisition.

33 (c) Notwithstanding any other provision of chapter 567 of the
34 general statutes relating to the transfer unemployment experience, if
35 an employer transfers its assets, organization, trade or business, or a
36 portion of its assets, organization, trade or business, to another
37 employer with whom, at the time of such transfer, the transferring
38 employer shares substantially common ownership, management or
39 control, the unemployment experience of the transferring employer
40 shall be transferred to the receiving employer. The administrator shall
41 recalculate the contribution rates of both employers and make such
42 recalculated rates effective upon the date of the transfer. The
43 administrator may require from any employer, whether or not
44 otherwise subject to this chapter, any sworn or unsworn reports that
45 are necessary for the effective administration of this section.

46 (d) Any person who violates this section shall be fined not more

47 than two thousand dollars or imprisoned not more than one year, or
48 both.

49 (e) In addition to the penalty imposed pursuant to subsection (d) of
50 this section and any applicable penalties under chapter 567 of the
51 general statutes, if a person knowingly violates or attempts to violate
52 any provision of subsection (b) or (c) of this section, or any other
53 provision of chapter 567 of the general statutes relating to determining
54 the assignment of a contribution rate, or knowingly advises another
55 person in the violation of subsection (b) or (c) of this section, such
56 person shall be subject to the following penalties:

57 (1) If the person is an employer, such person shall be assigned a
58 penalty rate of contributions of two per cent of taxable wages for the
59 year during which such violation or attempted violation occurred and
60 for the following three years.

61 (2) If the person is not an employer, such person shall be subject to a
62 civil penalty of not less than five hundred dollars nor more than five
63 thousand dollars. Any such fine shall be deposited into the
64 Employment Security Special Administration Fund established under
65 subsection (d) of section 31-259 of the general statutes.

66 (f) The administrator shall adopt regulations, in accordance with the
67 provisions of chapter 54 of the general statutes, to establish procedures
68 and guidelines necessary to implement the provisions of this section,
69 including procedures to identify the transfer or acquisition of a
70 business for purposes of this section.

71 (g) This section shall be interpreted and applied in such a manner as
72 to meet the minimum requirements of Public Law 108-295 as
73 interpreted by the federal Department of Labor.

74 (h) This section shall apply to unemployment compensation tax
75 years beginning on and after January 1, 2006.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2005</i>	New section
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Statement of Purpose:

To conform state unemployment compensation law to federal requirements and avoid an increase in employer taxes.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]