



STATE REPRESENTATIVE

SAMANTHA KERKMAN

2017 Assembly Bill 710 / Senate Bill 542 Unemployment Insurance Benefit Theft

Assembly Committee on Public Benefit Reform
Tuesday, January 30, 2018

Chairman Krug and Members of the Committee, thank you holding a hearing today on Assembly Bill 710 and giving me the opportunity to testify in favor of this legislation.

Assembly Bill 710 provides consistency in punishment for those who steal by making the penalties for someone who intentionally defrauds the Unemployment Insurance system match the penalties in our statutes for theft.

Current penalties for UI benefits theft are substantially lower than those for other theft – and arguably not much of a deterrent. The current penalties for UI benefit theft also do not provide much of an incentive for District Attorneys to prosecute individuals who steal from the UI system. Theft is theft, and it makes no sense to have the penalties be lower if an individual steals UI benefits than they would be if that same individual stole money from a cash register.

The chart below shows the penalties in AB 710 for knowingly making a false statement or representation to obtain a UI benefit alongside current penalties:

Value of Benefits	Current Law	Penalty under AB 710 / SB 542
Up to \$2,500	\$100-\$500 / 90 days	\$10,000 / 9 months - Class A misdemeanor
\$2,500 - \$5,000	\$100-\$500 / 90 days	\$10,000 / 3 years & 6 months - Class I felony
\$5,000 - \$10,000	\$100-\$500 / 90 days	\$10,000 / 6 years - Class H felony
Exceeds \$10,000	\$100-\$500 / 90 days	\$25,000 / 10 years - Class G felony

Matching the penalties for UI benefit theft to those for other theft is fair, protects the integrity of the Unemployment Insurance fund, and helps ensure that the program functions for its intended purpose – a temporary safety net for those who are out of work through no fault of their own.

Thank you for considering Assembly Bill 710 today and I look forward to the committee's support.

Table 11
Overpayments of Unemployment Benefits Identified by DWD, by Reason
 FY 2011-12 through FY 2013-14

Reason	Number	Percentage of Total	Amount (in millions)	Percentage of Total
Individual Fault (unintentional)	577,000	84.7%	\$ 61.8	36.8%
Individual Fault (intentional)	64,700	9.5	86.3	51.4
No Fault	27,100	4.0	11.4	6.8
DWD Error	6,700	1.0	4.6	2.7
Multiple Party Errors	3,300	0.5	3.6	2.1
Other ¹	2,600	0.4	0.2	0.1
Total	681,400	100.0%	\$167.9	100.0%

¹ Includes overpayments made from a now-discontinued federal program funded by the American Recovery and Reinvestment Act of 2009.

Unemployment fraud: State seeks no criminal charges in 99.8% of cases

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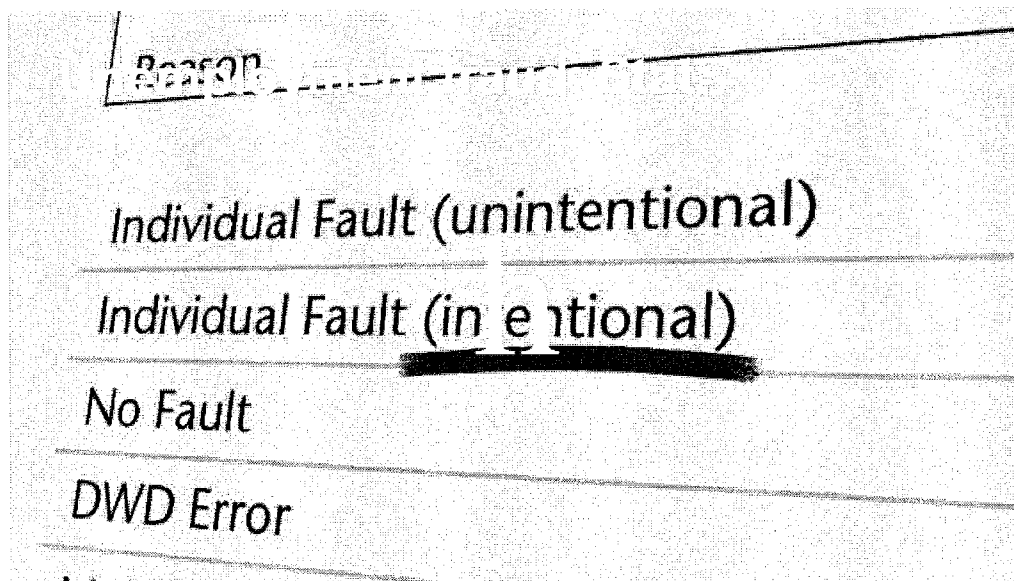
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PORT WASHINGTON (WITI) -- The economy is improving, businesses are expanding and unemployment is the lowest it's been since 2008. So why are thousands of people with jobs still claiming they're jobless? It is a common form of fraud, but what's far less common is jail time for those caught ripping off the unemployment system. A FOX6 investigation finds the state did not seek criminal charges against tens of thousands of people suspected of filing false claims.

John Weinrich says that's irritating -- and you can hardly blame him. When Weinrich was 25, he quit his job as a cook and spent every dime he had to open his own restaurant.

"I lived in the basement for a couple years," Weinrich said.

A quarter century later, New Port Shores is a Port Washington landmark, and Weinrich is enjoying the spoils. But he earned it all the hard way.



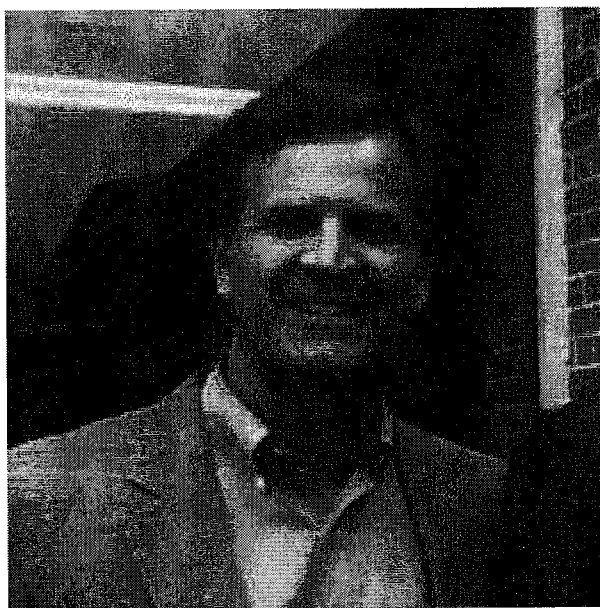
John Weinrich, a small business owner who pays taxes into the state's unemployment fund, says fraud is "irritating."

"So yeah, I get a little touchy when it comes to fraud," he said.

Like thousands of small business owners across Wisconsin, Weinrich pays a percentage of his payroll into the state's unemployment fund. It's a pool of money set aside to help workers survive a gap between jobs or a downturn in the economy.

But a FOX6 investigation finds that tens of thousands of people who are claiming unemployment benefits aren't supposed to be getting them.

People like David Wegmann -- a real estate salesman from Mequon who used to make six figures until the economy took a nose dive.



David Wegmann continued to receive unemployment benefits for 36 weeks after he found a job. He fraudulently obtained more than \$12,000 in benefits, but served no jail time.

Wegmann got a new job, but it paid less than he was used to. So, to bridge the gap, he lied and told the state he was still unemployed. And he did so week, after week, after week -- for 36 weeks in a row.

Voice of Bryan Polcyn / FOX6

Investigators: "Don't you have to respond each week whether you have employment or not?"

Voice of David Wegmann / Fraud convict:
"Yes, and that's where I made my mistake."

Wegmann now lives in suburban Chicago. In a phone call with the FOX6 Investigators, he said the whole thing was an act of desperation.

"I was just trying to survive at the time," Wegmann said.

In all, he racked up more than \$12,000 in benefits he didn't deserve.

"That's taking money out of my pocket and employees' pockets," Weinrich said.

But Wegmann is far from alone.

A state audit released in December found that over a three-year period, more than \$86 million in unemployment benefits were paid to people who intentionally misled the government about their eligibility.

The State Department of Workforce Development calls them *overpayments*. State Representative Samantha Kerkman (R-Salem) calls it fraud.



Representative Samantha Kerkman is working on legislative issues surrounding unemployment fraud.

"It's frustrating to me as a legislator that this many people are taking advantage of the system," Kerkman said.

In Madison, Kerkman co-chairs the Legislative Audit Committee. Last year, she requested an audit of the unemployment insurance program to find out why so many phone calls were being dropped during peak periods. But Kerkman says the audit uncovered something far more troubling -- nearly 65,000 fraudulent claims in just three years. Bogus claims made by 44,000 different people. That's enough unemployment cheats to fill every seat at Miller Park, and then some.

"It says that it's easy to do and we need to change the program," Kerkman said.

A FOX6 investigation finds the problem may be even worse than it sounds. Of the 44,488 unemployment cheats from July of 2011 through July of 2014, the state referred just 93 of them for criminal prosecution.

In other words, 99.8% of the people who made intentional misrepresentations were not charged with a crime.

"I would like them to prosecute more if it so warrants," Kerkman said.

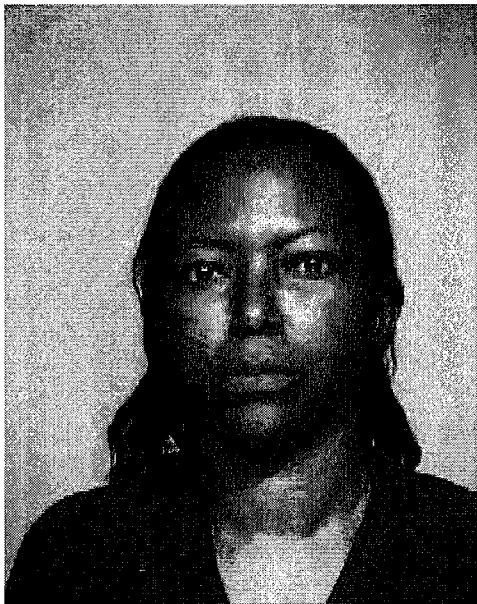
The State Department of Workforce Development declined requests for an on camera interview. In an email to the FOX6 Investigators, a department spokesman writes that prosecutions can take "years to resolve," so instead they focus on the "other methods" that they know are "effective at recovering fraudulent payments."

In 2013, the state recovered \$23.9 million in fraudulent benefits through things like income tax intercepts and a reduction in future benefits. But state auditors say that's money that was paid out over the past 26 years, meaning there are tens-of-millions of dollars, if not hundreds-of-millions of dollars left to recover.

"I think if you make a statement, maybe you won't have so much fraud," Weinrich suggests.

Case in point -- Lolita Lee. In 2010, she was a nurse at Milwaukee's VA Hospital, making nearly \$70,000 a year. Still, she was cashing weekly benefit checks of \$388 for so long that by the time the state caught on, she'd amassed more than \$40,000 in fraud.

"I mean, that's crazy," Kerkman said.



Lolita Lee stole more than \$40,000 from the unemployment insurance fund while working as a nurse at Milwaukee's Zablocki VA Medical Center from 2009 through 2011.

Lee was convicted of an unclassified misdemeanor -- the lowest level crime possible. She was placed on probation with the agreement that she pay restitution of more than \$50,000 in weekly installments of \$12.50. At that rate, she'd have the balance paid off by the year 2089, when she would be 123 years old.

"It's really pennies. It's gonna take her a long time -- if she'll ever pay it back," Kerkman said.

Maybe she can't afford anymore than that. Or maybe she can. Lee now works at the VA Hospital in Minneapolis, Minnesota. Last summer, she moved into a luxurious, 3,600 square foot townhouse in Apple Valley. It rents for \$2,395 per month.

The FOX6 Investigators went all the way to Minnesota to ask her how she's paying for it, but neighbors say she moved out a week before we got there.

"She should maybe visit a jail cell and see how much smaller they are," Weinrich said.



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Assembly Bill 710
Assembly Committee on Public Benefit Reform
January 30, 2018

Thank you committee members for making yourself available for a public hearing on Assembly Bill 710. I would also like to thank Representative Kerkman for her leadership on this issue in the Assembly.

Penalties for Unemployment Insurance fraud are currently less severe than other comparable offenses, such as theft. Defrauding the UI system, no less wrong than any other form of theft, should be seen for what it actually is: stealing from the hard working taxpayers.

This bill seeks to remedy this inconsistency by ensuring similar penalties for similar behavior. The penalties that this bill would impose are as follows:

- If the value of any benefits obtained does not exceed \$2,500, is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both;
- If the value of any benefits obtained exceeds \$2,500 but does not exceed \$5,000, is guilty of a Class I felony;
- If the value of any benefits obtained exceeds \$5,000 but does not exceed \$10,000, is guilty of a Class H felony;
- If the value of any benefits obtained exceeds \$10,000, is guilty of a Class G felony.

If we put more of a deterrent in place for someone breaking the law, he or she is less likely to do it. When the potential benefit from scamming the system outweighs the deterrent, there is an incentive for criminals to break the law. The bill is intended to create a stronger disincentive to steal taxpayer money and add integrity to the UI program.

I ask you to consider Assembly Bill 710 for a vote in front of the full Senate. Thank you again, committee members, for taking the time to hold this public hearing and I will be pleased to answer and questions.

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Scott Walker, Governor
Raymond Allen, Secretary

Assembly Committee on Public Benefit Reform
January 30, 2018
Testimony on AB 710, Provided by Andrew Evenson, Policy Advisor

Chairperson Krug and members of the Committee:

I am Andrew Evenson, the Policy Advisor for the Department of Workforce Development, and I come before you today to testify in support of Assembly Bill 710.

As the committee knows, Unemployment Insurance (UI) fraud impacts UI programs throughout the nation. Under the leadership of Governor Walker and the legislature, the Department has put a greater emphasis on ensuring that we protect the employer-funded UI Trust Fund which is used solely to pay benefits to workers who lose their employment through no fault of their own.

In 2017, the Department collected over \$ 14 million in fraudulently obtained benefits from previous years. That number has fallen every year since 2012 as the Wisconsin economy has improved and the Department's fraud prevention and detection efforts have paid off. Despite this positive trend, the Department continues to believe that any amount of fraud is too much and our efforts will continue.

At the Department, we have a diverse set of tools available to detect fraud. Some of the most successful include our wage record cross match, the state and national new hire cross matches, incarceration cross matches, and fraud detected by agency staff. Although we have many staff who are dedicated to detecting and preventing fraud, all staff play a role in ensuring that accurate and timely benefit payments are made to those who are eligible. We owe this to the employers who fund benefit payments and we owe it to UI claimants who responsibly use the program while dedicating themselves to become reemployed quickly.

Under Governor Walker's leadership, the Department has increased our ability to detect and recover fraudulently obtained benefits while increasing our efforts to prevent future fraud attempts. The Department has taken an active approach in educating both employers and claimants on the consequences of inaccurate reporting of necessary claim information and has continuously encouraged UI claimants to contact the Department with any questions regarding UI before filing their UI claim. By communicating to claimants the repercussions of reporting inaccurate information on their weekly claims and the many penalties for committing fraud, while making more information available to claimants over the internet and making staff available to answer questions through our inquiry line, the Department is working to curtail UI fraud and reduce instances of improper payments.

The Department also works to deter future fraud attempts, in part by referring the most egregious fraud cases to law enforcement for potential criminal prosecution. In 2017 the Division identified and referred 159 cases to local district attorneys. Unfortunately the Division is finding that the existing criminal consequences for fraud are minimal. The maximum fine is \$500, and the most common sentences call for repayment orders, which essentially mirror what the Department can pursue administratively under current law. These consequences fuel the perception that UI benefits theft is less severe than stealing from a brick and mortar store, a bank, or an individual's home. This legislation will correct this imbalance, protect the integrity of the program, and help deter future UI fraud attempts.

The Department will continue to share information, strengthen existing relationships and forge new strategies in an effort to ensure that the UI program remains a fair and reliable system for Wisconsin workers and employers. And, by working with our partners in the Legislature, we will strengthen our state's UI system overall.

Thank you again for your time and for the opportunity to testify today. I am happy to answer any questions the committee may have at this time.



**THE LEADING VOICE
FOR WISCONSIN SMALL
AND INDEPENDENT BUSINESSES**

January 30, 2018

**TO: Members
Assembly Committee on Public Benefit Reform**

**FR: Brian Dake
Legislative Director
Wisconsin Independent Businesses**

RE: 2017 Assembly Bill (AB) 710 relating to: criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty.

Chairman Krug and committee members my name is Brian Dake, Legislative Director for Wisconsin Independent Businesses. Thank you for the opportunity to testify in support of 2017 Assembly Bill (AB) 710.

By way of background, Wisconsin Independent Businesses (WIB) was formed in 1977 to provide small, independent business owners with a voice in the legislative and regulatory activities of state government. Today, we have more than 4,000 members – approximately 85% of which own and operate businesses that have fewer than 25 employees.

Prior to the start of the 2011-2012 legislative session, WIB developed a set of “core” principles to guide our Unemployment Insurance (UI)-related advocacy efforts. They are:

- Reduce the UI tax burden on small employers;
- Increase accountability on the part of UI claimants;
- Improve program integrity and reduce UI fraud;
- Provide clarity to the enforcement of existing UI laws and regulations; and
- Transition UI claimants to gainful employment as quickly as possible.

WIB...Helping you where you need it.

PO Box 2135 | Madison, Wisconsin 53701 | 800-362-9644 | www.wibiz.org

2017 Assembly Bill 710 is wholly consistent with our goal of improving UI program integrity and reducing UI fraud. Our views on this legislation are guided by the Department of Workforce Development (DWD).

Earlier this month, DWD testified in support of the Senate companion bill – 2017 Senate Bill 542. In their written testimony, the Department, in part, wrote:

“In 2017, the Division (UI) identified and referred 159 cases to local district attorneys. Unfortunately the Division is finding that the existing criminal consequences for fraud are minimal. The maximum fine is \$500, and the most common sentences call for repayment orders, which essentially mirror what the Department can pursue administratively under current law.”

UI benefits paid to temporarily unemployed workers are funded through payroll taxes paid by Wisconsin employers. Their tax dollars should not be provided to individuals who are falsely claiming and receiving UI benefits.

We believe stiffer penalties serve as a deterrent to criminal activity. Individuals who fraudulently claim and receive UI benefits should be subject to more than just a \$500 fine and a repayment order.

For these reasons, we respectfully ask for your support of AB 710.

Thank you in advance for your consideration.