



CHRIS KAPENGA

WISCONSIN STATE SENATOR

Testimony on Senate Bill 542

Senate Committee on Public Benefits, Licensure, and State-Federal Relations

January 11, 2018

Thank you committee members for making yourself available for a public hearing on Senate Bill 542. 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 Senate Bill 401 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.



STATE REPRESENTATIVE

SAMANTHA KERKMAN

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

Senate Committee on Public Benefits, Licensing, and State-Federal Relations
Thursday, January 11, 2018

Chairman Kapenga and Members of the Committee, thank you holding a hearing today on Senate Bill 542 and giving me the opportunity to testify in favor of this legislation.

Senate Bill 542 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 penalties under this bill for knowingly making a false statement or representation to obtain a UI benefit are:

Value of Benefits Obtained	Penalty
Up to \$2,500	Class A misdemeanor \$10,000 / 9 months
\$2,500 - \$5,000	Class I felony \$10,000 / 3 years & 6 months
\$5,000 - \$10,000	Class H felony \$10,000 / 6 years
Exceeds \$10,000	Class G felony \$25,000 / 10 years

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 Senate Bill 542 today and I look forward to the committee's support.

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Scott Walker, Governor
Raymond Allen, Secretary

Senate Committee on Public Benefits, Licensing & State-Federal Relations
January 11, 2018
Testimony on SB 542, Provided by Andrew Evenson, Policy Advisor

Chairperson Kapenga 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 Senate Bill 542.

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 11, 2018

**TO: Members
Senate Committee on Public Benefits, Licensing and State-Federal Relations**

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

RE: 2017 Senate Bill (SB) 542 relating to: criminal penalties for fraud in obtaining unemployment insurance benefits and providing a criminal penalty.

Chairman Kapenga 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 Senate Bill (SB) 542.

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.

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2017 Senate Bill 542 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).

Two years ago, DWD testified in support of the 2015-2016 legislative session version of this legislation – 2015 Senate Bill 401. In their written testimony, the Department, in part, wrote:

“In 2015, the Division (UI) identified and referred 115 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 SB 542.

Thank you in advance for your consideration.