

2013 -- H 5701

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS -- EMPLOYMENT SECURITY--
GENERAL PROVISIONS

Introduced By: Representatives Winfield, Keable, and Silva

Date Introduced: February 27, 2013

Referred To: House Labor

(Labor & Training)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-42-38 and 28-42-38.1 of the General Laws in Chapter 28-42
2 entitled "Employment Security - General Provisions" are hereby amended to read as follows:

3 **28-42-38. Records and reports -- Confidentiality of information.** -- (a) Every
4 employer and every employing unit employing any person in employment in this state shall keep
5 true and accurate employment records of all persons employed by him or her, and of the weekly
6 hours worked for him or her by each, and of the weekly wages paid by him or her to each person;
7 and every employer and employing unit shall keep records containing any other information that
8 the director may prescribe. Those records shall at all times be available within this state and shall
9 be open to inspection by the director or his or her authorized representatives at any reasonable
10 time and as often as the director shall deem necessary.

11 (b) The director may require from any employer, or employing unit, employing any
12 person in this state, any reports covering persons employed by him or her, on employment,
13 wages, hours, unemployment, and related matters which the director deems necessary to the
14 effective administration of chapters 42 -- 44 of this title.

15 (c) (1) Information obtained, or information contained in other records of the department
16 obtained from any individual pursuant to the administration of those chapters, shall be held
17 confidential by the director and shall not be published or be open to public inspection in any
18 manner revealing the individual's or employing unit's identity, but any claimant at a hearing

1 provided for in those chapters shall be supplied with information from those records of the extent
2 necessary for the proper presentation of his or her claim. Any department employee guilty of
3 violating this provision shall be subject to the penalties provided in chapters 42 -- 44 of this title;
4 provided, that nothing contained in this subsection shall be construed to prevent:

5 (i) The director, or any qualified attorney whom the director has designated to represent
6 him or her in any court of this state, or the attorney general, from making any record, report, or
7 other information referred to in this section, available in any proceeding before any court of this
8 state in any action to which the director is a party;

9 (ii) The director from making any record, report, or other information referred to in this
10 section, available to any agency of this state or any agency of a political subdivision of this state
11 charged with the administration of public assistance within this state, or any of its political
12 subdivisions;

13 (iii) The director from making any record, report, or other information referred to in this
14 section available to the railroad retirement board or to employees of the Internal Revenue Service
15 in the performance of their public duties, and the director shall furnish, at the expense of the
16 railroad retirement board or the Internal Revenue Service, copies of those records, reports, or
17 other information referred to in this section;

18 (iv) The director from making available upon request and on a reimbursable basis, any
19 record, report, or other information referred to in this section to the federal Department of Health
20 and Human Services in accordance with the provisions of United States P.L. 100-485, Family
21 Support Act of 1988, or to the federal Department of Housing and Urban Development and to
22 authorized representatives of public housing agencies in accordance with the Stewart B.
23 McKinney Homeless Assistance Act, 42 U.S.C. section 11301 et seq.;

24 (v) The director from making available to the Division of Taxation upon request of the
25 tax administrator any record, report, or other information referred to in Title 28, Chapter 42 for
26 the purposes of compiling the annual unified economic development budget report and
27 performing the requirements under subsection 42-142-3(e); enforcing the provisions of Title 28,
28 Chapter 42; and/or performing any of its obligations under Title 44. The information received by
29 the Division of Taxation from the department of labor and training pursuant hereto pertaining to
30 an individual employer shall be held confidential and shall not be open to public inspection.
31 Nothing herein shall prohibit the disclosure of statistics and/or statistical data that do not disclose
32 the identity of individual employers and/or the contents of specific returns.

33 (vi) The director from making, and the director shall make, reports in the form and
34 containing any information that the federal Social Security Administration may from time to time

1 require, and complying with any provisions that the federal Social Security Administration may
2 from time to time find necessary to assure the correctness and verification of those reports. The
3 director shall make available, upon request, to any agency of the United States charged with the
4 administration of public works or assistance through public employment, the name, address,
5 ordinary occupation, and employment status of each recipient of unemployment compensation
6 and a statement of that recipient's rights to further compensation under that law;

7 (vii) The director from conducting any investigations he or she deems relevant in
8 connection with these provisions;

9 (viii) The director from conducting any investigations he or she deems relevant in
10 connection with the performance of his or her duties pursuant to the administration of the
11 chapters 29, 32, 33, 34, 36, 37 and 41 of this title, or from making any record, report, or other
12 information referred to in this section available to the Workers' Compensation Fraud Prevention
13 Unit for use in the performance of its duties under section 42-16.1-12; or

14 (ix) The director from forwarding, and the director shall forward to the jury
15 commissioner, the names and addresses of all individuals who are receiving unemployment
16 compensation on a yearly basis in accordance with section 9-9-1(e).

17 (x) The director from providing data on unemployment insurance recipients or any other
18 data contained in departmental records that is obtained from an individual pursuant to the
19 administration of chapter 42-44 of this title, to the department's designated research partners for
20 the purpose of its workforce data quality and workforce innovation fund initiatives. The provision
21 of these records will be done in accordance with an approved data-sharing agreement between the
22 department and its designated research partners that protects the security and confidentiality of
23 these records and through procedures established by protocols, rules and/or regulations as
24 determined necessary by the director and appropriately established or promulgated.

25 (2) The director may publish in statistical form the results of any investigations without
26 disclosing the identity of the individuals involved.

27 **28-42-38.1. Quarterly wage reports.** -- (a) (1) The department of labor and training is
28 designated and constituted the agency within this state charged with the responsibility of
29 collecting quarterly wage information, as required by 42 U.S.C. section 1302b-7. Each employer
30 shall be required to submit a detailed wage report to the director, for all calendar quarters within
31 thirty (30) days after the end of each quarter in a form and manner prescribed by the director,
32 listing each employee's name, social security account number, the total amount of wages paid to
33 each employee, and any other information that the director deems necessary. All reports shall be
34 in addition to those now required by the department.

1 (2) The department will utilize the quarterly wage information that it collects from
2 employers to establish an individual's eligibility for unemployment insurance benefits and to
3 determine the amount and duration of benefits for all new claims filed.

4 (3) Notwithstanding any provisions of chapters 42 -- 44 of this title to the contrary, the
5 department may utilize employee quarterly wage information submitted by employers to measure
6 the progress of the state in meeting the performance measures developed in response to United
7 States Public Law 105-220, the Workforce Investment Act of 1998 (see 29 U.S.C. section 2801 et
8 seq.), further provided however, that the department may verify certain employee quarterly wage
9 information for the local workforce investment board and provide it with the verified data under
10 procedures established by rules and regulations promulgated by the director. The director shall
11 also make the quarterly wage information available, upon request, to the agencies of other states
12 in the performance of their public duties under the Workforce Investment Act of 1998 in that
13 state. This information shall be made available only to the extent required by the Secretary of
14 Labor and necessary for the valid administrative needs of the authorized agencies, and all
15 agencies requesting this data shall protect it from unauthorized disclosure. The department shall
16 be reimbursed by the agencies requesting the information for the costs incurred in providing the
17 information.

18 (4) Notwithstanding any provisions of chapters 42 -- 44 of this title to the contrary, the
19 department may provide quarterly wage information to the United States Census Bureau for the
20 purpose of participating in a joint local employment dynamics program with the United States
21 Census Bureau and the Bureau of Labor Statistics.

22 (5) Notwithstanding any provisions of chapter 42-44 of this title to the contrary, the
23 department may provide employee quarterly wage information to the department's designated
24 research partners for the purpose of its workforce data quality and workforce innovation fund
25 initiatives. The provision of these records will be done in accordance with an approved data-
26 sharing agreement between the department and its designated research partners that protects the
27 security and confidentiality of these records and through procedures established by protocols,
28 rules and/or regulations as determined necessary by the director and appropriately established or
29 promulgated.

30 (b) Notwithstanding any inconsistent provisions of chapters 42 -- 44 of this title, an
31 employer who fails to file a detailed wage report in the manner and at the times required by
32 subsection (a) of this section for any calendar quarter shall pay a penalty of twenty-five dollars
33 (\$25.00) for each failure or refusal to file. An additional penalty of twenty-five dollars (\$25.00)
34 shall be assessed for each month the report is delinquent; provided, that this penalty shall not

1 exceed one hundred and fifty dollars (\$150) for any one report. This penalty shall be paid into the
2 employment security tardy account fund and if any employer fails to pay the penalty, when
3 assessed, it shall be collected by civil action as provided in section 28-43-18.

4 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would authorize the department of labor and training to share unemployment
2 insurance information with the department's designated research partner for the purpose of its
3 workforce data quality initiative.

4 This act would take effect upon passage.

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