

4123-17-14.1 Misrepresentation of payroll.

- (A) No employer shall knowingly misrepresent to the bureau of workers' compensation the amount of classification of payroll upon which the premium under this chapter is based. No self-insuring employer shall knowingly misrepresent to the bureau the amount of paid compensation paid by such employer.
- (B) As used in the rule, "knowingly" means that the employer had actual knowledge of the misrepresentation and was aware that the misrepresentation would cause a certain result. An employer will not be deemed to have knowingly misrepresented its payroll, its classification of payroll, or its paid compensation where the employer's determination of how to report was:
- (1) Based on the employer's reasonable interpretation of a law, rule, or manual classification.
 - (2) Based on prior reporting instructions or written advice received from the bureau.
- (C) Whenever the bureau of workers' compensation finds that an employer violated division (A) of section 4123.25 of the Revised Code by knowingly misrepresenting its payroll or classification of payroll to the bureau, the administrator or the administrator's designee may impose a penalty that the administrator of the administrator's designee deems appropriate upon the employer ~~as follows~~ based on the following criteria:
- (1) ~~For the first offense, five hundred dollars or twenty five percent of the amount of the difference between the premium the employer paid and the amount the employer should have paid, whichever is higher.~~ Amount of difference between the premium the employer paid and the amount the employer should have paid;
 - (2) The frequency with which the employer has misrepresented its payroll or classification of payroll to the bureau;
 - (3) The number of misrepresentations or misclassifications the employer has made to the bureau;
 - (4) The duration for which the employer made such misrepresentations or misclassifications;
 - (5) Whether the bureau has found misclassified or underreported payroll in a premium audit on prior occasion; and
 - ~~(2)-(6)~~ (6) For a second offense, up to ten times the amount of the difference between the premium the employer paid and the amount the employer should have paid. Any additional circumstances that warrant consideration in determining the penalty amount.
- a second offense, up to**The penalty imposed under this section shall not exceed ten times the amount of the difference between the premium the employer paid and the amount the employer should have paid.
- (D) Whenever the self-insuring employers evaluation board finds that a self-insuring employer violated division (B) of section 4123.25 of the Revised Code by knowingly misrepresenting its paid compensation to the bureau, the self-insuring employers evaluation board may impose a penalty upon the employer as provided under section 4123.25 of the Revised Code.
- (E) Except for a self-insuring employer, an employer may appeal a penalty imposed under this rule to the adjudicating committee under section 4123.291 of the Revised Code.