

HOUSE BILL No. 5717

March 25, 1992, Introduced by Reps. Martin, Jonker and Murphy and referred to the Committee on Labor.

A bill to amend section 54c of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as added by Act No. 8 of the Public Acts of 1991, being section 421.54c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 54c of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as added by Act No. 8 of the Public
3 Acts of 1991, being section 421.54c of the Michigan Compiled
4 Laws, is amended to read as follows:

5 Sec. 54c. (1) An employing unit or an officer or agent of
6 an employing unit, a claimant for unemployment benefits, an
7 employee of the commission, or a third party that has knowingly
8 or willfully appropriated or converted to his, her, or its own
9 use money to be used for the payment of benefits under this act

1 or money received as the payment of contribution liability under
2 this act is guilty of embezzlement punishable as follows:

3 (a) If the amount obtained as a result of the knowing or
4 willful appropriation or conversion of money is less than
5 \$1,000.00, the commission may recover the amount obtained as a
6 result of the knowing or willful appropriation or conversion of
7 money and may also recover damages equal to 2 times that amount.

8 (b) If the amount obtained as a result of the knowing or
9 willful appropriation or conversion of money is \$1,000.00 or
10 more, the commission may recover the amount obtained as a result
11 of the knowing or willful appropriation or conversion of money
12 and may also recover damages equal to 3 times that amount. The
13 commission may refer the matter to the prosecuting attorney of
14 the county in which the alleged violation occurred for
15 prosecution. ~~if~~ IF the commission has not made its own deter-
16 mination under this subdivision, the penalty sought by the prose-
17 cutor shall include the amount described in this subdivision and
18 shall also include 1 of the following applicable penalties:

19 (i) If the amount obtained or withheld from payment as a
20 result of the knowing or willful appropriation or conversion of
21 money is \$1,000.00 or more but less than \$25,000.00, then 1 of
22 the following:

23 (A) Imprisonment for not more than 1 year.

24 (B) The performance of community service of not more than 1
25 year but not to exceed 2,080 hours.

26 (C) A combination of (A) and (B) that does not exceed 1
27 year.

1 (ii) If the amount obtained or withheld from payment as a
2 result of the knowing or willful appropriation or conversion of
3 money is \$25,000.00 or more but less than \$100,000.00, then 1 of
4 the following:

5 (A) Imprisonment for not more than 2 years.

6 (B) The performance of community service of not more than 2
7 years but not to exceed 4,160 hours.

8 (C) A combination of (A) and (B) that does not exceed 2
9 years.

10 (iii) If the amount obtained or withheld from payment as a
11 result of the knowing or willful appropriation or conversion of
12 money is \$100,000.00 or more, then 1 of the following:

13 (A) Imprisonment for not more than 5 years.

14 (B) The performance of community service of not more than 5
15 years but not to exceed 10,400 hours.

16 (C) A combination of (A) and (B) that does not exceed 5
17 years.

18 (iv) If the knowing or willful appropriation or conversion
19 of money made to obtain or withhold an amount from payment does
20 not result in a loss to the commission, then a penalty shall be
21 sought equal to 3 times the amount that would have been obtained
22 by the knowing or willful appropriation or conversion of money,
23 but not less than \$1,000.00, and 1 of the following:

24 (A) Imprisonment for not more than 2 years.

25 (B) The performance of community service of not more than 2
26 years but not to exceed 4,160 hours.

1 (C) A combination of (A) and (B) that does not exceed 2
2 years.

3 (2) This section shall apply even if the amount obtained or
4 withheld from payment has been reported or reported and paid by
5 an individual involved in the embezzlement.

6 (3) This section applies to conduct that began before ~~the~~
7 ~~effective date of this section~~ APRIL 1, 1992, but that continued
8 on or after ~~the effective date of this section~~ APRIL 1, 1992,
9 and to conduct that began on or after ~~the effective date of this~~
10 ~~section~~ APRIL 1, 1992.

11 (4) The penalties provided in this section shall be in addi-
12 tion to any penalty provided in this act for a late filing.

13 (5) If a determination is made that an individual has vio-
14 lated this section, the individual is subject to the penalty pro-
15 visions of this section and, where applicable, the requirements
16 of section 62.

17 (6) ~~Amounts~~ THE AMOUNT recovered by the commission pursu-
18 ant to ~~this section~~ SUBSECTION (1)(A) OR (B) shall be credited
19 FIRST TO THE UNEMPLOYMENT TRUST FUND AND THEREAFTER to the pen-
20 alty and interest account of the contingent fund ~~. Not less~~
21 ~~than annually the commission shall transfer to the unemployment~~
22 ~~trust fund amounts recovered under this section to the extent~~
23 ~~that the unemployment trust fund has not previously been credited~~
24 ~~for~~ TO THE EXTENT OF THE AMOUNT RECOVERED IN EXCESS OF the
25 amount obtained as a result of the embezzlement.

26 (7) This section shall take effect April 1, 1992.