

# SENATE BILL No. 33

February 5, 1991, Introduced by Senators GEAKE, HONIGMAN,  
DILLINGHAM, CHERRY and HART and referred to the  
Committee on Labor.

A bill to amend section 62 of Act No. 1 of the Public Acts  
of the Extra Session of 1936, entitled as amended  
"Michigan employment security act,"  
as amended by Act No. 164 of the Public Acts of 1983, being sec-  
tion 421.62 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 62 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 164 of the  
3 Public Acts of 1983, being section 421.62 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 62. (a) If the commission determines that a person  
6 has obtained benefits to which the person is not entitled, the  
7 commission may recover a sum equal to the amount so received by 1  
8 or both of the following methods: (1) deduction from benefits  
9 that may be or may become payable to the individual, or (2)

1 payment by the individual to the commission in cash. Deduction  
2 from benefits that may be or may become payable to the individual  
3 shall be limited to not more than 20% of each weekly benefit  
4 check otherwise due the claimant. The commission shall not  
5 recover improperly paid benefits from an individual more than 3  
6 years, OR 6 YEARS IN THE CASE OF A VIOLATION OF SECTION 54(A) OR  
7 (B) OR SECTIONS 54A TO 54C, after the date of receipt of the  
8 improperly paid benefits unless: (1) a civil action is filed in  
9 a court by the commission within the 3-year OR 6-YEAR period, (2)  
10 the individual has made an intentional false statement, misrep-  
11 sentation, or concealment of material information to obtain the  
12 benefits, or (3) a determination requiring restitution has been  
13 issued by the commission within the 3-year OR 6-YEAR period.  
14 Furthermore, except in a case of an intentional false statement,  
15 misrepresentation, or concealment of material information, the  
16 commission may waive recovery of an improperly paid benefit if  
17 the payment was not the fault of the individual and if repayment  
18 would be contrary to equity and good conscience.

19 (b) If the commission determines that a person has inten-  
20 tionally made a false statement or misrepresentation or has con-  
21 cealed material information to obtain benefits, whether or not  
22 the person obtains benefits by or because of the intentional  
23 false statement, misrepresentation, or concealment of material  
24 information the person shall, in addition to any other applicable  
25 penalties, have all of his or her uncharged credit weeks with  
26 respect to the benefit year in which the act occurred canceled as  
27 of the date the commission receives notice of, or initiates

1 investigation of, possible false statement, or misrepresentation  
2 or concealment of material information, whichever date is  
3 earlier. Before receiving benefits in a benefit year established  
4 within 2 years after cancellation of uncharged credit weeks under  
5 this subsection, the individual, ~~shall,~~ in addition to making  
6 the restitution of benefits established pursuant to subsection  
7 (a), ~~pay~~ MAY BE LIABLE to the commission, by cash or deduction  
8 from benefits, ~~a penalty amount equal to 100% of the total res-~~  
9 ~~titution amount established as the result of the intentional~~  
10 ~~false statement, misrepresentation, or concealment of material~~  
11 ~~information. The total of the penalty amount shall not exceed~~  
12 ~~\$1,000.00. The payment of the penalty amount does not apply to~~  
13 ~~an individual who has been convicted under section 54 or any~~  
14 ~~other criminal statute if prosecution thereunder was based upon~~  
15 ~~violation of this act. FOR AN ADDITIONAL AMOUNT AS OTHERWISE~~  
16 ~~DETERMINED BY THE COMMISSION PURSUANT TO THIS ACT. Restitution~~  
17 ~~resulting from the intentional false statement, misrepresenta-~~  
18 ~~tion, or concealment of material information shall not be subject~~  
19 ~~to the 20% limitation provided in subsection (a).~~

20 ~~(c) If the commission determines that an employer subject~~  
21 ~~to this act has personally, or by agent or employee, intention-~~  
22 ~~ally made a false statement or misrepresentation or has concealed~~  
23 ~~material information to avoid, prevent, or decrease the payment~~  
24 ~~of benefits or to avoid or reduce liabilities for charges of ben-~~  
25 ~~efits, in addition to any other applicable penalties under this~~  
26 ~~act, the employer shall forfeit to the commission an amount equal~~  
27 ~~to the total amount of any benefits which are or would be allowed~~

1 the individual, with respect to whose claim for benefits the  
2 false statement, misrepresentation, or concealment of information  
3 was made, on the basis of his or her employment with the employ-  
4 er, as finally determined or adjudicated.

5 ~~(d) An employing unit or an officer or agent of an employing~~  
6 ~~unit who intentionally makes a false statement or misrepresenta-~~  
7 ~~tion or conceals material information to obtain or increase any~~  
8 ~~benefit or other payment under this act for himself or herself or~~  
9 ~~any other person, shall, in addition to any other applicable pen-~~  
10 ~~alties under this act, forfeit to the commission an amount equal~~  
11 ~~to the total amount of any benefits so obtained or increased.~~

12 (C) ~~-(e)-~~ Any determination made by the commission under  
13 this section shall be final unless an application for a redeter-  
14 mination is filed with the commission in accordance with section  
15 32a.

16 (D) ~~-(f)-~~ The commission shall take the action which is nec-  
17 essary to recover all benefits improperly obtained or paid under  
18 this act, and to enforce all forfeitures under ~~subsections (b),~~  
19 ~~(e), and (d)-~~ SUBSECTION (B).

20 Section 2. This amendatory act shall take effect April 1,  
21 1992.

22 Section 3. This amendatory act shall not take effect unless  
23 all of the following bills of the 86th Legislature are enacted  
24 into law:

25 (a) Senate Bill No. 35.

26

1 (b) Senate Bill No. 34.

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3 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
4 no. 01514'91).

5 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
6 no. 01515'91).

7 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
8 no. 01516'91).

9 (f) Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
10 no. 01517'91).