

SENATE BILL No. 34

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

A bill to amend Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended, being sections 421.1 to 421.73 of the Michigan Compiled Laws, by adding section 54b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 1 of the Public Acts of the Extra
2 Session of 1936, as amended, being sections 421.1 to 421.73 of
3 the Michigan Compiled Laws, is amended by adding section 54b to
4 read as follows:

5 SEC. 54B. (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 CONSPIRED
8 WITH 1 OR MORE PERSONS TO COMMIT AN OFFENSE PROHIBITED BY THIS
9 ACT OR TO COMMIT AN ACT PERMITTED BY THIS ACT IN AN ILLEGAL

1 MANNER SHALL BE GUILTY OF CONSPIRACY PUNISHABLE BY 1 OR MORE OF
2 THE FOLLOWING:

3 (A) IF THE COMMISSION DETERMINES THAT AN INDIVIDUAL CON-
4 SPIRED TO COMMIT AN ILLEGAL ACT UNDER THIS ACT, THE COMMISSION
5 MAY RECOVER THE AMOUNT OF MONEY SO OBTAINED OR WITHHELD FROM PAY-
6 MENT AS A RESULT OF THE ILLEGAL ACT, AND MAY ALSO RECOVER DAMAGES
7 EQUAL TO 3 TIMES THAT AMOUNT.

8 (B) THE COMMISSION MAY REFER THE MATTER FOR PROSECUTION. IF
9 THE COMMISSION HAS NOT MADE ITS OWN DETERMINATION UNDER
10 SUBDIVISION (A), THE PENALTY SOUGHT BY THE PROSECUTOR SHALL
11 INCLUDE THE AMOUNT DESCRIBED IN SUBDIVISION (A) AND SHALL ALSO
12 INCLUDE 1 OR MORE OF THE FOLLOWING PENALTIES:

13 (i) IF THE AMOUNT OBTAINED OR WITHHELD FROM PAYMENT AS A
14 RESULT OF THE CONSPIRACY IS \$25,000.00 OR LESS, THEN A PENALTY
15 SHALL BE SOUGHT OF IMPRISONMENT FOR NOT MORE THAN 2 YEARS, OR IN
16 THE ALTERNATIVE THE PERFORMANCE OF COMMUNITY SERVICE OF NOT MORE
17 THAN 2 YEARS BUT NOT TO EXCEED 4,160 HOURS, OR BOTH.

18 (ii) IF THE AMOUNT OBTAINED OR WITHHELD FROM PAYMENT AS A
19 RESULT OF THE CONSPIRACY IS MORE THAN \$25,000.00, THEN A PENALTY
20 SHALL BE SOUGHT OF IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR IN
21 THE ALTERNATIVE THE PERFORMANCE OF COMMUNITY SERVICE OF NOT MORE
22 THAN 5 YEARS BUT NOT TO EXCEED 10,400 HOURS, OR BOTH.

23 (iii) IF A CONSPIRACY TO OBTAIN OR WITHHOLD AN AMOUNT FROM
24 PAYMENT DOES NOT RESULT IN A LOSS TO THE COMMISSION, THEN A PEN-
25 ALTY SHALL BE SOUGHT EQUAL TO 3 TIMES THE AMOUNT INVOLVED IN THE
26 CONSPIRACY, BUT NOT LESS THAN \$1,000.00, AND IMPRISONMENT FOR NOT
27 MORE THAN 2 YEARS, OR IN THE ALTERNATIVE THE PERFORMANCE OF

1 COMMUNITY SERVICE FOR NOT MORE THAN 2 YEARS BUT NOT TO EXCEED
2 4,160 HOURS, OR BOTH.

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 A CONSPIRACY.

6 (3) THIS SECTION APPLIES TO CONDUCT THAT BEGAN BEFORE THE
7 EFFECTIVE DATE OF THIS SECTION BUT THAT CONTINUED ON OR AFTER THE
8 EFFECTIVE DATE OF THIS SECTION AND TO CONDUCT THAT BEGAN ON OR
9 AFTER THE EFFECTIVE DATE OF THIS SECTION.

10 (4) THE PENALTIES PROVIDED IN THIS SECTION SHALL BE IN ADDI-
11 TION TO ANY PENALTY PROVIDED IN THIS ACT FOR A LATE FILING.

12 (5) IF A DETERMINATION IS MADE THAT AN INDIVIDUAL HAS VIO-
13 LATED THIS SECTION, THE INDIVIDUAL IS SUBJECT TO THE PENALTY PRO-
14 VISIONS OF THIS SECTION AND, WHERE APPLICABLE, THE REQUIREMENTS
15 OF SECTION 62.

16 (6) AMOUNTS RECOVERED BY THE COMMISSION PURSUANT TO THIS
17 SECTION SHALL BE CREDITED TO THE PENALTY AND INTEREST ACCOUNT OF
18 THE CONTINGENT FUND. NOT LESS THAN ANNUALLY THE COMMISSION SHALL
19 TRANSFER TO THE UNEMPLOYMENT TRUST FUND AMOUNTS RECOVERED UNDER
20 THIS SECTION TO THE EXTENT THAT THE UNEMPLOYMENT TRUST FUND HAS
21 NOT PREVIOUSLY BEEN CREDITED FOR THE AMOUNT OBTAINED AS A RESULT
22 OF THE CONSPIRACY.

23 (7) THIS SECTION SHALL TAKE EFFECT APRIL 1, 1992.

24 Section 2. This amendatory act shall not take effect unless
25 all of the following bills of the 86th Legislature are enacted
26 into law:

1 (a) Senate Bill No. 35.

2

3 (b) Senate Bill No. 33.

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5 (c) Senate Bill No. _____ or House Bill No. _____ (request
6 no. 01514'91).

7 (d) Senate Bill No. _____ or House Bill No. _____ (request
8 no. 01515'91).

9 (e) Senate Bill No. _____ or House Bill No. _____ (request
10 no. 01516'91).

11 (f) Senate Bill No. _____ or House Bill No. _____ (request
12 no. 01517'91).